

In The Matter Of:

APPEAL HEARING of DR. LEENA VARUGHESE,

MEETING

November 14, 2011

RAYVID REPORTING SERVICE, INC.

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MEETING - Vol. 1

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APPEAL HEARING of DR. LEENA VARUGHESE

TO THE MEDICAL HOUSE STAFF

AFFAIRS COMMITTEE

MOUNT SINAI HOSPITAL

6:00 p.m.

November 14, 2011

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1	LEENA VARUGHESE	1	LEENA VARUGHESE
2		2	Department of Obstetrics Gynecology and
3	PANEL:	3	Reproductive Science.
4		4	Dr. Michael Marin, Professor and
5	DR. STEVEN WEINFELD, Chair	5	Chairman Department of Surgery.
6	DR. GILA LEITER	6	Dr. Harold Bronheim, Clinical
7	DR. MICHAEL MARIN	7	Professor of Psychiatry and Clinical
8	DR. HAROLD BRONHEIM	8	Professor of Medicine.
9	DR. MARISSA RAYMOND-FLESCH	9	Dr. Marissa Raymond-Flesch, PGY 4
10	DR. MELISSA ROCCO	10	department of medicine in pediatrics and
11	FOR THE PANEL:	11	Dr. Melissa Rocco, Chief Resident,
12		12	department of anesthesiology.
13	MICHAEL G. MacDONALD, ESQ.	13	Also present are Michael Macdonald,
14	Mount Sinai General Counsel	14	General Counsel School of Medicine,
15	FOR THE DEPARTMENT:	15	serving as counsel to the committee, Ms.
16	DR. CARLOS CORDONE-CARDO	16	Karen Jones, also of the general counsel's
17	DR. ADOLFO FIRPA	17	office, who is also assisting Mr. McDonald
18	RORY McEVOY, ESQ.	18	and the committee.
19	Edwards Wildman Palmer LLP	19	Dr. Carlos Cordone-Cardo and
20	750 Lexington Avenue	20	Dr. Adolfo Firpa, Mr. Rory McEvoy of the
21	New York, NY 10022	21	law firm of Edwards, Wilman & Palmer, who
22	FOR THE APPELANT:	22	is assisting of the Department of
23	DR. LEENA VARUGHESE, Pro Se	23	Pathology in it's presentation.
24	DR. RAJIT MALLIH	24	Ms. Marina Lowy, of the general
25		25	counsel's offices, also assisting the
	Page 3		Page 5
1	LEENA VARUGHESE	1	LEENA VARUGHESE
2		2	Department of Pathology, Dr. Leena
3	PROCEEDINGS	3	Varughese and Dr. Rajit Mallih.
4		4	DR. MALLIH: I am Dr. Leena
5	DR. WEINFELD: I would like to	5	Varghese's friend, I am a practicing
6	call the proceedings to order.	6	pathologist also.
7	This is the appeal of Dr. Leena	7	DR. WEINFELD: Dr. Varughese, are
8	Varughese of the decision dated September	8	you going to have counsel with you today
9	21, 2011 of Dr. Cardone-Corda and	9	or no?
10	Dr. Firpa to suspend and terminate	10	DR. VARUGHES: No.
11	Dr. Varughese from the pathology residency	11	DR. WEINFELD: So, just for the
12	program of the Mount Sinai School of	12	record, that Dr. Varughese is entitled
13	Medicine.	13	to have an attorney present, has chosen
14	Dr. Varghese's appeal was perfected	14	not to appear with counsel today.
15	in her letter dated September 28, 2011 to	15	Procedures that will govern this
16	Dr. Michael Harris, President of the	16	appeal are set forth in the house staff
17	Medical Board, which was received on	17	manual and include the following, Drs.
18	September 30, 2011.	18	Cordone-Carda and Dr. Firpa may present
19	My name is Steven Weinfeld, I'm	19	relative evidence and witnesses in
20	serving as the Chairman of the House Staff	20	presenting the department's position.
21	Affairs Committee that has been convened	21	They may question Dr. Varughese and
22	to consider and decide Dr. Varghese's	22	her witnesses.
23	appeal.	23	Similarly, Dr. Varughese may
24	I would like to introduce the other	24	present relevant evidence and witnesses on
25	members of the Committee, Dr. Gila Leiter,	25	her behalf, and may question Drs.

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<p style="text-align: right;">Page 6</p> <p>1 LEENA VARUGHESE 2 Cordone-Cardo and Firpa and the witnesses 3 who supported the Department of 4 Pathology's decision. 5 B, if the scope of the hearing will 6 be limited to determine whether there is 7 sufficient evidence to determine that the 8 adverse action taken by the Department of 9 Pathology was not arbitrary and 10 capricious. 11 All testimony at the hearing will 12 be under oath, and a transcript of the 13 hearing is being made. 14 The Rules of Evidence do not apply 15 and the decision of the Committee will be 16 based on a preponderance of the evidence. 17 I would like to stress this is a 18 peer review proceeding and members of the 19 Committee may take an active role in 20 questioning the witnesses. 21 In that connection the role of 22 attorneys is limited to providing advice 23 and counsel to Dr. Varughese and the 24 department as the case may be and 25 addressing the members of the Committee.</p>	<p style="text-align: right;">Page 8</p> <p>1 LEENA VARUGHESE 2 DR. WEINFELD: And. 3 MR. McEVOY: Yes. 4 DR. VARUGHESE: Actually, I do 5 now. 6 DR. WEINFELD: Yes. 7 DR. VARUGHESE: So is 8 Dr. Cordone-Cardo and Dr. Firpa 9 intending to defend themselves, or is 10 the lawyer speaking for them? 11 DR. WEINFELD: The Department 12 will be making a presentation, but 13 the -- as I just said, the lawyers are 14 not presenting evidence, so they will 15 provide advice to the members of the 16 Department. 17 MR. McEVOY: The only thing I was 18 going to say was that I would ask the 19 committee to accept as an Exhibit the 20 section of the house staff manual 21 dealing with disciplinary action, which 22 I don't think should be any problem with 23 because I understand that Dr. Varughese 24 has submitted that as one of her 25 proposed exhibits, and secondly, that</p>
<p style="text-align: right;">Page 7</p> <p>1 LEENA VARUGHESE 2 The role of the representatives may 3 not include the presentation of evidence 4 or the examination or cross-examination of 5 witnesses. 6 The committee may in its discretion 7 further define, expand or limit the role 8 of any representatives as we go along. 9 In addition, the committee may make 10 such additional rules as it deems 11 necessary to assure a prompt, fair and 12 expeditious handling of this appeal. 13 Members of the Committee have 14 reviewed the September 21, 2011 15 termination letter from Drs. Cordone-Cardo 16 and Firpa to Dr. Varughese. 17 Before we turn to Drs. 18 Cordone-Cardo and Firpa for their 19 presentation, then to Dr. Varughese for 20 her presentation, I would like to ask Dr. 21 Varughese and the Department whether there 22 are any preliminary matters they would 23 like to raise before we proceed further. 24 Dr. Varughese? 25 DR. VARUGHESE: No.</p>	<p style="text-align: right;">Page 9</p> <p>1 LEENA VARUGHESE 2 the committee take into evidence Dr. 3 Varughese' residence contract for the 4 PGY 4 year. 5 DR. WEINFELD: Is that something 6 we don't have copies of currently? 7 MR. MacDONALD: Well, I think -- 8 actually I think on the house staff 9 manual we can almost take that by 10 judicial notice. 11 If you want to mark it as a 12 Committee Exhibit 1 and Committee Exhibit 13 2, why don't we do that, and do we need to 14 do that physically to do that? 15 MR. MacDONALD: I think those 16 documents -- why don't we do that; let's 17 be sure that we mark the excerpt or 18 maybe the entire house staff manual, the 19 excerpt and the disciplinary proceedings 20 as Committee Exhibit 1 and the house 21 staff contract as Committee Exhibit 2. 22 DR. WEINFELD: So we will get 23 those marked into evidence. 24 I would like to start by asking 25 Drs. Cordone-Cardo and Dr. Firpa to make</p>

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1 LEENA VARUGHESE 2 their presentations on behalf of the 3 Department of Pathology. 4 DR. CARDONE-CORDO: Dr. Firpa 5 will make the presentation. 6 DR. WEINFELD: Are we going to 7 swear him in? 8 MR. MacDONALD: I think what we 9 should do is to swear Dr. Varughese, Dr. 10 Cordone-Cardo and Dr. Firpa all at the 11 same time so we don't have to interrupt 12 the flow of the proceedings. 13 Would you do that, Mr. Reporter.	1 LEENA VARUGHESE 2 but a carefully weighed and deliberated 3 decision. 4 The decision made after major and 5 repeated efforts to address her concerns 6 about being able to satisfy all her 7 residency requirements to qualify for the 8 Board examination in 2012 and in response 9 to her persistent accusations of unfair 10 treatment by everyone whenever she was 11 expected to be accountable for her conduct 12 and decisions. 13 Despite all efforts, she was 14 insubordinate toward her chief residents, 15 the program director, and unprofessional 16 in her dealings with others and towards 17 her responsibilities to the faculty and 18 the staff. 19 She lacked insight about her 20 problematic behavior, how damaging they 21 were to others and how disruptive it was 22 to the program operations. 23 Repeatedly she demonstrated her 24 lack of integrity toward her professional 25 responsibilities and poor sense of moral
15 ALEENA VARUGHESE, ADO 16 LFO FIRPO and CARLO 17 CORDONE - CARD O, were 18 called as witnesses, having been duly 19 sworn by the Notary Public, were examined 20 and testified as follows: 22 DR. WEINFELD: So all three are 23 sworn now, good. So the Department will 24 proceed. 25 DR. FIRPA: Mr. Chairman, ladies	15 Page 11 16 17 18 19 20 21 22 23 24 25
1 LEENA VARUGHESE 2 and gentlemen, members of the Committee, 3 good evening. 4 My name is Adolfo Firpa 5 Bettencourt, I am the Director of 6 Pathology Educational Activities as of the 7 1st of July of 2011. 8 When I joined Mount Sinai my 9 primary duty is to oversee accredited 10 pathology training programs, both 11 residency and fellowships, and together 12 with Dr. Pat Lento, the Pathology 13 Residency Program Director, to assess, 14 monitor and guide compliance with all 15 ACGME accreditation requirements as 16 specified in the Residency Review 17 Committee for Pathology guidelines. 18 And the directives of the Mount 19 Sinai's institutional GME office and other 20 institutional policies. 21 At this hearing we will demonstrate 22 unequivocally that the decision to 23 summarily suspend and terminate Dr. 24 Varughese from the pathology residency 25 program was not arbitrary, nor capricious,	1 LEENA VARUGHESE 2 judgment. 3 The documentation we provided and 4 the testimony of the witnesses will 5 demonstrate to you that Dr. Varughese was 6 unable to make any progress to grow into a 7 responsible medical professional as 8 expected of any accredited training 9 program. 10 The decision to terminate her from 11 residency was nothing more than the 12 ultimate result of her poor performance, 13 misconduct, insubordination, lack of 14 professionalism and integrity. 15 The decision to terminate Dr. 16 Varughese is authorized by the house staff 17 manual section on disciplinary action that 18 provides that the Department Chair may 19 terminate for cause a house officer who 20 fails to demonstrate an acceptable level 21 of professional competence, clinical 22 judgment in the treatment of patients, or 23 professionalism or who engages in any 24 activities that are a threat to the 25 welfare or safety of patients, employees,

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<p>1 LEENA VARUGHESE 2 other physicians, or the hospital itself. 3 Dr. Varughese also violated her 4 residence contract which requires her to 5 comply faithfully with and be subject to 6 the policies, rules and regulations of the 7 hospital.</p> <p>8 The decision to summarily suspend 9 Dr. Varughese was based on the judgment of 10 the Chair of the Department, the GME 11 office and me that her continued presence 12 at the hospital would pose a risk to Mount 13 Sinai and its patients.</p> <p>14 The events documented in the 15 materials we provided to you and the 16 experiences that the witness will describe 17 will demonstrate Dr. Varughese' poor 18 performance, persistent misconduct and a 19 pattern of escalating insubordination.</p> <p>20 Lack of professionalism and her 21 lack of personal and professional 22 integrity which rapidly deteriorated 23 between July 15th to the middle of 24 September when this difficult, but 25 unavoidable and necessary decision was</p>	<p>1 LEENA VARUGHESE 2 she may represent a threat to self and to 3 others and decided to keep her under 4 minimal stressful conditions within the 5 hospital for the rest of the day to be 6 able to observe her until we make 7 arrangement to have her seen by hospital 8 wellness or student health wellness.</p> <p>9 DR. BRONHEIM: Can you describe 10 her appearance that day?</p> <p>11 DR. FIRPA: Yes.</p> <p>12 Earlier in the morning I received 13 an e-mail from the Chief Residents that 14 they were concerned about her behavior 15 that morning, she had come in late, showed 16 a blank affect, she was practically 17 unresponsive and just sitting there.</p> <p>18 The perception of the residents was 19 that she may be undergoing a major crisis 20 and that she may -- they were afraid that 21 this could precipitate some type of 22 radical behavior.</p> <p>23 Having been notified of that and 24 being familiar with the policies of safety 25 in the workplace, I immediately</p>
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<p>1 LEENA VARUGHESE 2 made. 3 She was summarily terminated in 4 fairness to other residents, faculty and 5 staff, in an attempt to restore a sense of 6 normal to the complex environment in which 7 educational activities take place in 8 pathology and for the very safety of the 9 operations of the Department as they 10 relate to patient services.</p> <p>11 On September 15th, Dr. Varughese 12 told me that she could not perform her 13 work, was unable to concentrate, felt 14 overwhelmed and was gradually losing 15 control and needed to take a leave of 16 absence.</p> <p>17 Out of concern for her well-being 18 as well as the hospital and its patients, 19 I instructed residents and supervisors to 20 excuse her from her regular 21 responsibilities and consulted with her 22 rotation supervisor to arrange for a light 23 work schedule for the day.</p> <p>24 We were so concerned by her 25 appearance that day that we concluded that</p>	<p>1 LEENA VARUGHESE 2 communicated with the Human Resources 3 Department, the office of GME, the 4 Department Chair and others, about the 5 situation.</p> <p>6 Called and requested somebody to 7 come and assess the situation until I was 8 able to arrive.</p> <p>9 Upon my arrival I found her 10 literally quiet, sitting at her desk, 11 looking at some slides.</p> <p>12 I asked her to talk to her in 13 private. We proceeded to the student 14 lounge and I asked her bluntly what's 15 wrong?</p> <p>16 She first said nothing. Finally I 17 insisted that I know something is wrong, 18 please tell me, I know you now, what seems 19 to be the problem?</p> <p>20 And then she relayed I cannot take 21 it anymore, I feel very bad, I am unable 22 to work, I cannot concentrate, I have not 23 prepared a presentation that I have been 24 asked to prepare many times, not because I 25 really don't want to, but because I feel</p>

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<p style="text-align: right;">Page 18</p> <p>1 LEENA VARUGHESE 2 unable to concentrate and do any work. 3 And I really feel overwhelmed and I 4 think I need to take a leave of absence, 5 go away for a while. 6 Even during her narration, she 7 exhibited behavior which made me suspect 8 that this may be an organic episode, for 9 moments she'll stop her narrative, she'll 10 flicker her eyes, as if having a petit mal 11 seizure then will continue and captured 12 her train of thought. 13 I was really, really very 14 concerned. 15 I instructed her to calm down, 16 don't be stressed, I'll make arrangements 17 for you to be excused for all duties of 18 the day. 19 I talked to the Chief Residents and 20 instructed them not to bother her, and 21 excuse her from all the activity. 22 I went and found her rotation 23 supervisor, Dr. Peterson, discussed my 24 impressions, he shared with me that he had 25 been observing some deterioration also,</p>	<p style="text-align: right;">Page 20</p> <p>1 LEENA VARUGHESE 2 afternoon after the initial incident in 3 the morning. 4 Despite my explicit instructions of 5 not to come to work, she continued to come 6 and meet with her rotation supervisor in 7 private without any other work 8 responsibilities. 9 Her lack of insight about her 10 unstable conduct, her apparent lack of 11 understanding of the potential risks she 12 posed to others after having acknowledged 13 her inability to concentrate and being 14 unable to perform at a minimal level of 15 competence are the factors that we 16 considered to represent a risk to other 17 persons in the work environment and 18 ultimately to the safety of patients and 19 the quality of services provided by our 20 Department. 21 These were the the ultimate reasons 22 that led to her summary suspension on 23 September 21, 2011. 24 The Pathology Department at Mount 25 Sinai, as you may well know, is the</p>
<p style="text-align: right;">Page 19</p> <p>1 LEENA VARUGHESE 2 but didn't feel that it had been so 3 serious, but it was not a surprise. 4 So we agreed to put a very light 5 workload for the day, so that she'll be 6 able to remain under observation. 7 With that, and I then proceeded to 8 find out what was the necessary steps to 9 take to arrange for a leave of absence, 10 what are the requirements, what were the 11 procedures, and that I left leaving her 12 behind under those instructions. 13 Out of concern for Dr. Varughese as 14 well as the hospital, I instructed the 15 residents and supervisor to excuse her 16 from regular responsibilities and 17 consulted with her rotation supervisor I 18 just described. 19 Despite my explicit instructions -- 20 the following morning I formally advised 21 her not to report back to work until she 22 has secured a doctor's note and had 23 completed the required application for her 24 leave of absence as she was instructed by 25 Ms. Patel on the 15th at noon in the early</p>	<p style="text-align: right;">Page 21</p> <p>1 LEENA VARUGHESE 2 largest in any single comparable academic 3 institution in New York City. 4 The surgical pathology case volume 5 is over 150,000 specimens per year, and 6 our clinical laboratory service processing 7 is comparable to a commercial laboratory 8 in volume and complexity. 9 Educational pathology programs 10 include the residency and specialty 11 fellowships in cytology, gastrointestinal 12 pathology, gynecologic pathology, liver 13 pathology, molecular genetics, surgical 14 pathology, as well as elective rotations 15 to visiting students and pathology 16 rotations, to residents in other specialty 17 training programs here at Mount Sinai. 18 The Mount Sinai pathology residency 19 offers three options, clinical pathology 20 only program for three years or the 21 combined anatomic clinical pathology 22 program over four years. 23 Most of our residents choose the 24 combined program, as did Dr. Varughese. 25 The program proceeds in a series of</p>

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<p style="text-align: right;">Page 22</p> <p>1 LEENA VARUGHESE 2 sequential rotations for periods of time 3 proscribed by the ACGME which provide the 4 ability to sit for the Board specialty 5 examination.</p> <p>6 The rotations provide educational 7 experiences for the resident to acquire 8 knowledge and skills necessary to grow 9 professionally into a competent, 10 independent general pathologist in 11 practice.</p> <p>12 The combined program requires a 13 minimum of 18 months rotations in each of 14 the AP and CP components, the AP component 15 requires a total of 11 months of autopsy 16 pathology and at least 12 months of 17 surgical pathology, training experience.</p> <p>18 Autopsy education requires each 19 resident to perform and report at least on 20 50 autopsies.</p> <p>21 To participate in gross organ 22 reviews, an informal autopsy presentation 23 by other members of the Department, the 24 program includes time exposures to 25 forensic, pediatric, perinatal and similar</p>	<p style="text-align: right;">Page 24</p> <p>1 LEENA VARUGHESE 2 disciplinary actions for nonattendance to 3 this core educational activities. 4 Residents are evaluated according 5 to the six ACGME core competencies which 6 are patient care, medical knowledge, 7 practice based learning and improvement, 8 interpersonal and communication skills, 9 professionalism and system based practice. 10 In each of those domains, 11 particularly, in practice based learning 12 and improvement and interpersonal 13 communications skills and professionalism, 14 Dr. Varughese' performance demonstrated 15 consistently lack of growth and 16 development in acquiring the necessary 17 skills to perform at a level of competence 18 consistent not even with a level of a PGY 19 3. 20 Residents evaluations are provided 21 by faculty at the end of each rotation, 22 using electronic program called New 23 Innovations, which is available to all 24 residency programs in the institution. 25 The evaluations are reviewed by the</p>
<p style="text-align: right;">Page 23</p> <p>1 LEENA VARUGHESE 2 autopsy, the scheduled rotations fulfill 3 all the rotation requirements of the 4 ACGME. 5 The clinical pathology component at 6 Mount Sinai includes all the required 7 instructional experiences for 8 accreditation by the ACGME in all the 9 areas, microbiology, immunopathology, 10 blood bank and transfusion medicine, 11 chemical pathology, cytogenetics, 12 hematology, coagulation, toxicology, 13 medical microscopy, molecular biology, 14 techniques and other advanced diagnostic 15 techniques as they become available. 16 Rotating residents are assigned 17 specific tasks in areas of responsibility 18 compatible with the level of training and 19 the most strict level of competency in 20 performing of the duties. 21 The ACGME also requires programs to 22 establish didactic component of core 23 competencies and educational experiences 24 and an accredited program must maintain 25 records and have in place mechanisms for</p>	<p style="text-align: right;">Page 25</p> <p>1 LEENA VARUGHESE 2 residents with their faculty advisor and 3 program director semi-annually. 4 In addition, residents are 5 evaluated in 360 degree fashion by 6 technical ancillary staff and surgical 7 pathology technical staff, including 8 physician assistants throughout the year. 9 Dr. Varughese was a senior PGY 4 10 resident in the combined APC pathology 11 program. She graduated from UMDMJ New 12 Jersey Medical School in May 2008 and was 13 admitted and started residency with us in 14 July 1 of 2008. 15 Her initial performance in the 16 program was shaky, as evidenced by her 17 evaluations, but gradually improved 18 sufficiently to a mostly satisfactory 19 level and she was promoted through her 20 third year in the program. 21 While a PGY 3 in December 2010 Dr. 22 Varughese was placed on academic 23 advisement. 24 Dr. Varughese failed to comply with 25 the plan of actions in the academic</p>

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<p style="text-align: right;">Page 26</p> <p>1 LEENA VARUGHESE 2 advisement, and in July 2011 she was 3 issued a final warning by Dr. Carlos 4 Cordone-Cardo, recently appointed new 5 Chairman of the Department.</p> <p>6 The warnings stemmed from her 7 failure to fulfill the requirements of the 8 academic advisement and her behaviors at 9 the follow-up meeting on May 24th with the 10 Chairman and the Department administrator.</p> <p>11 These are included as Department 12 Exhibit 3 in the manual handed to you.</p> <p>13 And the details set forth in the 14 final warning are in Exhibit 2 of the 15 exhibits.</p> <p>16 MR. MacDONALD: Excuse me, shall 17 we mark -- these are the exhibits of the 18 Department in this binder which have 19 been passed out to everybody.</p> <p>20 Can we -- you are going to submit 21 all of these into the record?</p> <p>22 MR. McEVOY: Yes.</p> <p>23 MR. MacDONALD: So can we mark 24 these as you submit them as departments 25 Exhibits 1 through 17 for our record.</p>	<p style="text-align: right;">Page 28</p> <p>1 LEENA VARUGHESE 2 requirements to sit for the pathology 3 Board exam in 2012. 4 And her desire to replace her 5 elective rotation through GI pathology 6 with one in dermatopathology. 7 I finally suggested we should 8 discuss the issues related to her final 9 warning, her problems with professionalism 10 and any other issues related to her 11 current situation. 12 Initially she bluntly refused to 13 discuss any of these issues. 14 She told me quite clearly and 15 explicitly that she could not discuss any 16 of these items because she was pursuing 17 legal action and that I had to talk with 18 her lawyer about any of them. 19 I had to call the GME office on 20 three occasions during the session 21 requesting advice, given her refusal to 22 talk, and finally gave her two options as 23 instructed by Mr. Paul Johnson. 24 One, either accept to discuss these 25 issues which are the underlying reason for</p>
<p style="text-align: right;">Page 27</p> <p>1 LEENA VARUGHESE 2 These will be submitted to the 3 record as you make your presentation and 4 these will be called Department's Exhibits 5 1 through 17.</p> <p>6 MR. McEVOY: The only other thing 7 is that Exhibit 1 is the letter from 8 Drs. Cordone-Cardo and Dr. Firpa, the 9 suspense and termination letter which I 10 think you already made reference to 11 earlier, so that's Exhibit 1, so.</p> <p>12 MR. MacDONALD: Let's keep the 13 numerical order of the exhibits.</p> <p>14 DR. FIRPA: The final warning was 15 delivered to Dr. Varughese by Dr. 16 Cordone-Cardo on July 15, 2011.</p> <p>17 Dr. Varughese' job performance 18 after the final warning did not improve or 19 did so marginally.</p> <p>20 On our first meeting responding to 21 the final warning on August 2, 2011 I 22 emphasized to her that we should consider 23 this a new beginning.</p> <p>24 She talked about all her fears and 25 concerns of not being able to satisfy</p>	<p style="text-align: right;">Page 29</p> <p>1 LEENA VARUGHESE 2 the final warning, or two, refuse to do so 3 and incur another violation that will 4 require further disciplinary action, 5 including the possibility of her dismissal 6 from the program. 7 After a long pause she finally 8 accepted to talk and we agreed to meet 9 bi-weekly on Tuesday mornings at 9:00 over 10 three months for a total of seven 50 11 minute sessions about professionalism, 12 concepts, challenges and its demands on 13 medical professionals. 14 I explained to her that during the 15 first week of each rotation she would meet 16 with her rotation supervisor to review the 17 specific competence level objectives and 18 to make sure that she understood the 19 specific responsibilities assigned to her 20 during the rotation. 21 I also told her that at the end of 22 the rotation I will obtain feedback on her 23 performance. 24 Particularly on each level of the 25 competence areas, paying attention to</p>

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<p style="text-align: right;">Page 30</p> <p>1 LEENA VARUGHESE 2 improvement in her professional behavior. 3 I made it clear that she should 4 become familiar with the six ACGME 5 competence based objectives and explained 6 to her that these would provide a neutral 7 ground to objectively discuss her growth 8 in each competence over the three months 9 of the final warning, and her upcoming 10 rotations.</p> <p>11 Our shared goal was to put the past 12 behind, move forward beyond the three 13 months ahead so she could proceed to 14 complete her training.</p> <p>15 I agreed to look into her program 16 of rotations to ascertain her status and 17 meeting requirements to make the Board's 18 exam in 2012 and to explore the 19 possibility of switching her elective GI 20 rotations for one in pathology.</p> <p>21 At the end of the session I gave 22 her a printed copy of the ACGME 23 requirements for pathology residency 24 programs and asked her to review them, 25 paying particular attention to requirement</p>	<p style="text-align: right;">Page 32</p> <p>1 LEENA VARUGHESE 2 Dr. Najfeld's complaining about her lack 3 of interest in the work she was assigned 4 to do in the laboratory, her consistent 5 late arrivals to work, her early 6 departures, her inability to follow 7 instructions, her lack of insight and 8 understanding of the basic principles of 9 even preparing a case for presentation, 10 her absence from the lab, her 11 disrespectful attitude toward her and her 12 staff and many other troublesome behaviors 13 over this two week rotation and deficient 14 medical knowledge.</p> <p>15 Worse and most disheartening to 16 everyone was her indifference to efforts 17 made by Dr. Najfeld herself and her staff 18 to help her recover from her dismal 19 performance to the point of even bluntly 20 refusing to return to the laboratory to 21 work with her and redo a poorly prepared 22 presentation that was scheduled for the 23 next day.</p> <p>24 While still rotating through the 25 cytogenetics laboratory she started to</p>
<p style="text-align: right;">Page 31</p> <p>1 LEENA VARUGHESE 2 number 5 on professionalism. 3 My assignment to her was simple, 4 think about what it really means to be a 5 professional. 6 Over the following days and weeks 7 identify professional behaviors in your 8 working environment and observe examples 9 of behaviors that she'll consider 10 unprofessional. 11 The objective was to begin an open 12 discussion about professionalism and the 13 challenges it might pose to medical 14 professionals as they perform their 15 responsibilities. 16 She agreed to put the past behind 17 and move forward toward completion of her 18 residency program and the specialty Boards 19 in 2012. 20 Despite an apparent good start, her 21 inability to behave professionally and 22 responsibly started to surface during her 23 rotation through tumor cytogenetics and 24 Dr. Vesna Najfeld's laboratory. 25 I received calls and e-mails from</p>	<p style="text-align: right;">Page 33</p> <p>1 LEENA VARUGHESE 2 have problems, she continued to have 3 problems with the Chief Residents, being 4 insubordinate, questioning every action 5 and requesting -- and any requests to 6 comply with established procedures on 7 policies that were recently agreed upon 8 and implemented as required by the ACGME. 9 She refused to cover frozen section 10 service when a fellow resident called in 11 sick, then tried to avoid covering 12 surgical pathology service on another 13 occasion of the same resident's illness. 14 She ignored pages, e-mails and even 15 an on occasion offered explanations and 16 excuses for her failures to respond that 17 were interpreted as questionable reasoning 18 such as well, not to respond means that I 19 agree to cover. 20 Or not having -- I don't have to 21 respond to e-mails that just state facts 22 and don't ask questions. 23 As I promised her to do during the 24 initial meeting, I asked Dr. Lento to 25 ascertain that she'll be able to satisfy</p>

9 (Pages 30 to 33)

<p style="text-align: right;">Page 34</p> <p>1 LEENA VARUGHESE 2 requirements to take the pathology Board 3 exam in 2012, as she wished. 4 We found that she had only 5 performed 24 of her required 50 autopsies 6 over three years of training. 7 Dr. Lento immediately contacted the 8 office of the Medical Examiner to arrange 9 that during her rotation there she'll be 10 able to participate in at least one 11 autopsy per day so that she could meet the 12 requirement. 13 We reviewed the total rotation 14 hours to the various clinical pathology 15 service she had completed and was on 16 schedule over the following months. 17 To our satisfaction we were 18 confident that she would be able to 19 fulfill the required 18 months in the 20 required areas specified by the ACGME 21 review and required to be eligible to sit 22 for the board exam. 23 I informed her of these efforts and 24 each time she complained of being treated 25 unfairly, insisting that other residents</p>	<p style="text-align: right;">Page 36</p> <p>1 LEENA VARUGHESE 2 special consideration which was granted, 3 but despite all efforts and consideration 4 it was finally decided that it was not 5 possible to allow her to drop the GI 6 elective, which was turned out to have 7 been requested by her at the time the 8 schedule was prepared. 9 Repeatedly she refused to accept 10 the denial to her request to drop the 11 elective in GI, violating the established 12 policy and protocol and creating problems 13 with attendings and residents, even making 14 claims of events and actions that could 15 not be substantiated, or even confirmed 16 but by the very same individuals that she 17 had indicated could witness and support 18 her statements. 19 Problems with her behavior 20 continued and even escalated, she was 21 unwilling to prepare and make a 22 presentation on the topic of her choice as 23 penalty for being absent for more than 20 24 percent of the required mandatory core 25 morning conferences over the preceding</p>
<p style="text-align: right;">Page 35</p> <p>1 LEENA VARUGHESE 2 had more elective time, or more rotation 3 time in areas or another, that the 4 rotations she had received were not 5 providing enough experience for her to 6 feel competently prepared for making the 7 board exam. 8 Given the possibility that she may 9 not have completed all requirements by the 10 deadline to apply for the Board 11 examination, and anticipating that she may 12 have to pay a late application penalty 13 fee, I consulted with our Chairman, Dr. 14 Cordone-Cardo, and suggested to him to 15 help her by paying the penalty fee, and he 16 agreed to do so. 17 I personally contacted Dr. Miriam 18 Berchay and ascertained that if she would 19 be able to change the rotation schedule 20 and it will be possible and acceptable for 21 her to drop the GI elective she could 22 rotate through the dermatopathology 23 instead of GI. 24 I reminded her of the procedure and 25 personally requested that she be given</p>	<p style="text-align: right;">Page 37</p> <p>1 LEENA VARUGHESE 2 training block. 3 She questioned the validity of 4 having the requirement as part of our 5 departmental policy. 6 She misrepresented information and 7 regarding attendance to other educational 8 activities and conferences, both here and 9 at the VA. 10 She fought all the way and 11 by every means not to comply with this 12 minor task of a senior resident, twice she 13 called in sick when she had been scheduled 14 and finally made her presentation and 15 finally on another day just came in late, 16 sat through the presentation of a fellow 17 scheduled to speak before her, and as he 18 was finishing his presentation, just stood 19 up and walked out without a word. 20 On the 17th of August we had our 21 second meeting under the final warning, 22 Shema Patel, Department Administrator, 23 witnessed the meeting. 24 The meeting went surprisingly well 25 after all the events that transpired just</p>

<p style="text-align: right;">Page 38</p> <p>1 LEENA VARUGHESE 2 before, she had no objections to have Ms. 3 Patel present.</p> <p>4 We discussed in detail the problems 5 with her performance as a resident and the 6 numerous e-mail exchanges related to 7 request to acknowledge minutes of the 8 residents meeting, the new policies and to 9 abide by the new policies questioning 10 authority and changes in the overall 11 operation of the residency with new 12 control that did not seem to make sense 13 and appeared unjustified.</p> <p>14 I made it clear that the policies 15 were available on the G drive and 16 available for her review at any time. She 17 said that she had already signed 18 acknowledged receipt of the minutes and 19 policies on the 15th as required by the 20 Chief Residents.</p> <p>21 I explained to her that the 22 policies were to fulfill accreditation 23 requirements and standards.</p> <p>24 We agreed that it would provide 25 objective documentation of any issues we</p>	<p style="text-align: right;">Page 40</p> <p>1 LEENA VARUGHESE 2 excellent web reference at some website on 3 professionalism in pathology practice that 4 she felt everybody should read as part of 5 her training.</p> <p>6 I asked her to e-mail the link and 7 that I will read it and consider placing 8 it in the program description.</p> <p>9 Once again, despite an apparent 10 improvement in her attitude at the meeting 11 on 8/17, and some positive and promising 12 interactions with the Chief Residents on 13 the following days, problems resurfaced 14 once again over an apparent 15 misinterpretation of a scheduled 16 call during the Memorial Day weekend which 17 was ultimately clarified, but led to the 18 resurgence of Dr. Varughese's determination 19 to drop out of the elective GI rotation 20 and replace it with one through the 21 dermatopathology.</p> <p>22 Given her strong argument and 23 apparent genuine desire to get additional 24 exposure to dermatopathology, one of the 25 Chief Residents arranged for early morning</p>
<p style="text-align: right;">Page 39</p> <p>1 LEENA VARUGHESE 2 have discussed and she agreed to bring 3 documentation to support any explanations 4 she had given to explain the circumstances 5 of her conduct as described that morning.</p> <p>6 She said that she was aware that 7 this disciplinary action may culminate in 8 some further action and that she would 9 appreciate knowing as soon as possible 10 what was being considered for her so that 11 she could act accordingly.</p> <p>12 She also claimed that she was never 13 given a fair chance to resolve events that 14 led to her present disciplinary action and 15 that she had written the reflection and 16 had fulfilled all the requirements.</p> <p>17 She claimed that Dr. Cardone-Cor 18 notifying her of the disciplinary action 19 at this time was confusing and she was not 20 clear what she was supposed to do or 21 accomplish.</p> <p>22 I handed her a printed paper on 23 professionalism to discuss our next 24 session.</p> <p>25 She mentioned having found an</p>	<p style="text-align: right;">Page 41</p> <p>1 LEENA VARUGHESE 2 sign up of cases with Dr. Phelps, the 3 Director of the Dermatology Division who 4 is at work early and signs up cases 5 between 6:00 and 8:00 in the morning.</p> <p>6 He agreed to offer her access to 7 this period to discuss cases with her.</p> <p>8 She was also offered to have access 9 to additional private learning material 10 that this chief resident had obtained on 11 dermatopathology, given that is her 12 personal interest as a specialty.</p> <p>13 In an effort to be helpful Dr. 14 Varughese was repeatedly informed that her 15 request for dropping GI elective had been 16 denied, that she was expected to report to 17 rotation as scheduled.</p> <p>18 Nevertheless, on September 1st she 19 approached Dr. Harpaz directly and once 20 again began another cycle of discussions 21 and arguments about not doing the elective 22 GI rotation.</p> <p>23 By now she claimed to have already 24 made her own arrangements to attend a 25 review conference on pathology in Florida,</p>

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<p style="text-align: right;">Page 42</p> <p>1 LEENA VARUGHESE 2 and just informed everyone that she'll not 3 be available to do the GI rotation and 4 she'll find someone to cover for her. 5 Period. 6 Her third and final warning meeting 7 had been scheduled for Wednesday, the 7th 8 September at 7:00 a.m. at her own request, 9 but she did not show up. 10 At around 11:45 that day she sent 11 an e-mail apologizing for missing the 12 appointment and claiming that she had 13 tried to call me several times, but the 14 call had not gone through and was 15 repeatedly dropped. 16 She requested to meet the following 17 week in the afternoon. 18 I replied to her and reminded her 19 that as part of starting a new rotation 20 through hemopathology she had to meet with 21 her supervisor and review the competence 22 based objectives as per the ACGME 23 requirements, and be clear about what she 24 was expected to do during her rotation. 25 I also told her that requests to</p>	<p style="text-align: right;">Page 44</p> <p>1 LEENA VARUGHESE 2 rotation, having and obtaining the 3 agreement of both attendings. 4 At no time did I guarantee to her 5 that the change will proceed. 6 Much less, by my decision alone. 7 Eventually she brought the issue, 8 on September 15th emerged the need for the 9 leave of absence. 10 She was instructed to contact Dr. 11 Hughes of the wellness committee which she 12 has repeatedly failed to do, initially 13 claiming that her interaction in the past 14 with the wellness committee had been 15 unfruitful and really a waste of time. 16 Ms. Patel and Dr. Varughese -- 17 later on as over the following days she 18 continued to report to work when she was 19 told not to, to process for her leave of 20 absence. 21 She was encountered by Ms. Patel in 22 the morning near the Starbucks buying 23 coffee and she reported that she was on 24 the way to work. 25 She was reminded that she was not</p>
<p style="text-align: right;">Page 43</p> <p>1 LEENA VARUGHESE 2 drop out of the elective GI rotation was 3 officially denied, and any arguments 4 concerning this issue should be over. 5 She was expected to report to the 6 service as scheduled. 7 Later that afternoon she sent an 8 e-mail raising all kind of issues about 9 the unfairness of the final decision. 10 Around 2:30 p.m. she came into my 11 office and a very gradually escalating 12 tone and practically yelling at me towards 13 the end, claimed that she was once again 14 being treated unfairly and insisting that 15 I had committed to make it happen for her, 16 since I had mentioned that it may be 17 possible when we first talked about it as 18 a possibility. 19 I reminded her that at all times I 20 had made her fully aware that there was a 21 process to follow and that I would only 22 intervene on her behalf, the final 23 decision would have to depend on the 24 feasibility of others on the schedule, 25 finding a replacement for her during the</p>	<p style="text-align: right;">Page 45</p> <p>1 LEENA VARUGHESE 2 supposed to come to work and was invited 3 to come over to Ms. Patel's office at the 4 President's chamber. 5 Ms. Patel then called the Office of 6 Human Resources for advisement how to 7 proceed, and me. 8 For a short time she stepped out of 9 the office, for 5 minutes, and on her 10 return found Dr. Varughese going over her 11 personal private confidential files in her 12 desk. 13 When addressed and asked what she 14 was doing, she initially denied that she 15 had been doing anything, eventually told 16 her to chill out, continued to dismiss as 17 a totally trivial event and eventually was 18 convinced to go and meet with the Human 19 Resources with representatives of the 20 Human Resources at the present time. 21 And Mr. Paul Jones, also from the 22 GME office. 23 Given a few -- these are just some 24 examples of her poor performance and mixed 25 conduct which the witnesses will relate in</p>

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<p style="text-align: right;">Page 46</p> <p>1 LEENA VARUGHESE 2 more detail as we call upon them to 3 describe to you their experiences. 4 Dr. Varughese, I already said at 5 the beginning the conditions that led to 6 our termination -- to the termination 7 process. 8 It was not an easy decision, it was 9 over the concerns of the risks her 10 presence represented to patient's 11 well-being and the capacity of working 12 effectively. 13 On the 21st she showed up to work, 14 she sat at her desk, she refused to leave, 15 she had been scheduled for a meeting that 16 day in the afternoon to discuss the terms 17 of her future in the Department. 18 At that point when addressed by Ms. 19 Patel and myself, she said that she'll not 20 leave until she had something in writing 21 instructing her to leave the premises. 22 At that point we called upon the 23 Office of Human Resources, Dr. Hughes and 24 the office of the GME who convened 25 immediately and tried to make a decision</p>	<p style="text-align: right;">Page 48</p> <p>1 LEENA VARUGHESE 2 experience and review the documents that 3 we have provided for you, we are confident 4 that you will find that the decision to 5 terminate Dr. Varughese was, indeed, not 6 arbitrary or capricious in any way. 7 And that responded to the best 8 interests of the patients and the 9 hospital. 10 That's the end of my statement. 11 DR. WEINFELD: So we are going to 12 call some witnesses? 13 MR. MacDONALD: Well, I think Dr. 14 Varughese may have an opportunity to ask 15 questions and the Committee may also ask 16 questions directly to clarify anything 17 that Dr. Firpa may have said. 18 MR. McEVOY: What I would ask in 19 addition to the committee asking Dr. 20 Firpa's statement as the opening 21 statement of the Department, that they 22 also accept his statement to the extent 23 it articulates his personal experiences 24 as his testimony so as the need to avoid 25 calling him again as a witness and then</p>
<p style="text-align: right;">Page 47</p> <p>1 LEENA VARUGHESE 2 how to proceed. 3 After some deliberation over some 4 hours it was decided to proceed with her 5 summary termination, she was then invited 6 into Dr. Carlos Cordone-Cardo's office 7 where she was handed the letter of 8 termination and instructed to review the 9 final paragraph which specified her rights 10 under the law and the policies and 11 regulations of the hospital. 12 During the whole process she 13 insisted in having -- in arguing some of 14 the content, in bringing other information 15 that was irrelevant to the issue. 16 Repeatedly she has to be reminded 17 this is not an argument, this is not a 18 discussion, this is a final decision, 19 these are your rights, read them carefully 20 and you have a given amount of time to 21 request an appeal. 22 Those were the events that led to 23 the termination. 24 I shall conclude by saying that 25 after you will hear all the witnesses'</p>	<p style="text-align: right;">Page 49</p> <p>1 LEENA VARUGHESE 2 Dr. Varughese, as Mr. MacDonald 3 suggests, if she wants to ask Dr. Firpa 4 questions about the things to which he 5 testified, then that would I think 6 expedite the proceeding. 7 DR. WEINFELD: That sounds very 8 reasonable, as long as Dr. Firpa is 9 available for questioning. 10 MR. MacDONALD: Dr. Varughese may 11 have questions herself to ask or the 12 committee may have questions, also. 13 DR. WEINFELD: So we want to 14 allow for questions now or do we want to 15 have Dr. Varughese give her 16 presentation? 17 MR. MacDONALD: I think what 18 should happen, Dr. Weinfeld, is the 19 Department should make it's full 20 presentation with its witnesses, but as 21 each witness testifies I think Dr. 22 Varughese should have the opportunity to 23 ask questions while the witnesses are 24 present. 25 DR. WEINFELD: Do you want to go</p>

<p style="text-align: right;">Page 50</p> <p>1 LEENA VARUGHESE 2 ahead and ask Dr. Dr. Firpa any 3 questions as theoretically the first 4 witness? 5 DR. VARUGHESE: Sure, yeah, I 6 think I will. 7 8 CROSS-EXAMINATION BY DR. VARUGHESE: 9 10 Q So you said that on September 15 11 you thought my appearance and behavior was very 12 unusual or radical? Like what do you mean by 13 that? 14 A It was very concerning in terms 15 of your mental status. 16 Q How so? 17 A Well, you exhibited total 18 flattened affect, very slow responses, 19 proceeded to give a very chaotic statement 20 about being unable to cope, being overwhelmed 21 by your work, not being able to concentrate as 22 the reasons for your persistent refusals to 23 prepare the presentation that you were required 24 to do. 25 During the presentation you even</p>	<p style="text-align: right;">Page 52</p> <p>1 LEENA VARUGHESE 2 light work day so that you can remain in 3 premises until we find out how to proceed about 4 your consensual request to procure a leave of 5 absence. 6 Q Well, I think I did state to you 7 that I was fine and I wanted to be at work and 8 I was going to be able to cope with whatever it 9 was, but my specific concern was the rash of 10 e-mails that was being sent to me about 11 presentation, about acknowledgment of policies 12 which did not even go into effect until the 13 15th which was halfway through period 2. 14 A That's not a question, Dr. 15 Varughese. What is it that you want me to 16 respond to? 17 Q I am just wondering why you're 18 falsifying what actually happened? 19 How are you so certain that's 20 what happened? 21 A Well, that's what happened, I 22 was there, there were witnesses all around us, 23 it took place over -- other than the few 24 minutes we had in private discussion, 25 everything else was witnessed before and</p>
<p style="text-align: right;">Page 51</p> <p>1 LEENA VARUGHESE 2 paused at one point, flickered your eyes, 3 which were to me indicative or reminiscent of a 4 petit mal seizure, then recapture your line of 5 thinking and continued. 6 Q Okay, so when you were speaking 7 to me, wasn't Ms. Patel also there? 8 A No, the first session in the 9 morning when I first came we were alone, then I 10 returned with Ms. Patel. 11 Q You didn't initially arrive with 12 Ms. Patel, or it was within like half an hour 13 of these two incidents? 14 A I arrived early in the morning. 15 As soon as I was able to reach the place, I 16 found you in that condition. 17 I called you to a private 18 session in the lounge room, and after seeing 19 this situation I came out, we were alone, I 20 came back, I instructed the residents to excuse 21 you from all responsibilities that day, as I 22 had asked you if you wanted me to do, I also 23 went and talked to your supervisor, 24 Dr. Peterson, about your status and suggested 25 that if he -- if it would be possible to have a</p>	<p style="text-align: right;">Page 53</p> <p>1 LEENA VARUGHESE 2 afterwards, and when I returned with Ms. Patel 3 and the information to provide you the forms on 4 how to request the leave of absence that you 5 indicated, she was able to confirm the 6 condition in which you were in that day. 7 Again, in front of her in the 8 second session you reiterated your need to take 9 a leave of absence because you were unable to 10 cope. 11 Q I said -- I don't think that's 12 what I said. I never said unable to cope, I 13 said that I would consider taking a leave of 14 absence if my physicians can approve it and 15 it's a foreseeable -- 16 A That's not a question again, Dr. 17 Varughese. What is it you want me to respond 18 to. 19 Q That's what I said to you. So I 20 don't understand why you are misrepresenting 21 what had happened that morning? 22 A I am not misrepresenting 23 anything, I am just relating the summary of the 24 experience. 25 Q That's your impression.</p>

<p style="text-align: right;">Page 54</p> <p>1 LEENA VARUGHESE 2 DR. WEINFELD: Is Ms. Patel being 3 called as a witness? 4 MR. McEVOY: Yes. 5 DR. WEINFELD: She would be able 6 to answer some of these questions as 7 well. 8 Q Then you said -- what's your 9 experience in clinical medicine, because you 10 said that I'm having a petit mal seizure? 11 A Well, I went through medical 12 school. 13 Q So you are not an expert, but 14 you made -- 15 A I did not claim, I said it was 16 an impression. 17 Q All right, fine. 18 A I did not make a diagnosis. 19 Q That's fine, thank you. 20 You said Dr. Lento mentioned 21 that I had only performed 24 autopsies? 22 A 24 or 26, that was the total. 23 Q I had corrected that, in fact I 24 had done 36 autopsies to completion and 25 assisted in, perhaps, at least 3 or 4?</p>	<p style="text-align: right;">Page 56</p> <p>1 LEENA VARUGHESE 2 In fact, there are 36 autopsies 3 under the ACGME log and they can all be noted 4 for and they are done to completion. 5 A So what's your question 6 regarding that now? 7 Q My question is why were you led 8 to believe that it was only 24 when I already 9 informed you that I had also done 36? 10 DR. WEINFELD: He already 11 answered that, but you can submit the 36 12 logs as a -- 13 MR. MacDONALD: Is the 36 log in 14 your -- 15 DR. VARUGHESE: It's not there. 16 MR. MacDONALD: You can submit 17 that. 18 DR. VARUGHESE: Great. 19 Q Yes, you did say that you 20 consulted with Dr. Cordone-Cardo regarding 21 payment for possibly a penalty fee if I were to 22 take the anatomic pathology boards late. 23 When did you consult, after you 24 told me? 25 A Once we verified that you were</p>
<p style="text-align: right;">Page 55</p> <p>1 LEENA VARUGHESE 2 A Again, that is not a question. 3 What is your point? 4 Q My point is that that's not a 5 fact. That's once again I am being 6 misrepresented as not having done the work that 7 I did, but, in fact, I already did 36 autopsies 8 satisfactorily and the Department is stating I 9 had only done 24. 10 A The requirement for you to be 11 able to sit at the Boards is 50 autopsies. You 12 realize that you had not completed the 50, and 13 we made arrangements for you to complete 14 whatever number was necessary to fulfill that 15 requirement. 16 Q In January? 17 A When we count the 24 or 26 and 18 we brought that to you, you said well, I have 19 not kept up my log, and I have done many more 20 which are not yet entered into New Innovation, 21 the only source that we had to make the counts 22 is what you report. 23 Q Well, actually I have a 24 completed log in ACGME which I would like to 25 submit at some point as part of my exhibit.</p>	<p style="text-align: right;">Page 57</p> <p>1 LEENA VARUGHESE 2 short of the 50 requirement that your rotation 3 through the Medical Examiner's office would not 4 occur until January. 5 Q Yes, because I'm scheduled late 6 for the Medical Examiner rotation and, in fact, 7 that I wanted to be -- 8 A And what is the question? 9 Q So my request that I would 10 actually be scheduled earlier in the schedule, 11 because obviously my next year's schedule was a 12 concern that I brought to you when you first 13 came here, because I had noted that I am not 14 being trained given the rotations that I need 15 for adequate training in clinical pathology? 16 A So what is your question again? 17 Q My question was when did you 18 consult with Dr. Cordone-Cardo, what date and 19 when, what time? 20 A It must have been on the -- I 21 don't remember exactly the date, but it was 22 shortly after we verified that you did not have 23 the 50 autopsies required for sitting in. 24 Q Thank you. 25 And also when did I ask you for</p>

<p style="text-align: right;">Page 58</p> <p>1 LEENA VARUGHESE 2 the GI elective to be switched to the dermapath 3 elective? 4 A On the very first time we met, 5 on August 2nd. 6 Q On August 2nd, right? 7 So when did you ever return or 8 respond to me about that elective? 9 A Yes. That very same day I 10 called Dr. Rojet to check, as I discussed with 11 you, first the plan was I will verify if it 12 will be a space in dermapathology first, if 13 that was available, then we will have to see 14 what was the procedure, because you will have 15 then to be allowed to drop the GI elective to 16 replace it and and that there was a procedure 17 in place and a policy that you have to confirm 18 with. 19 Q Okay, do you recall telling me 20 you needed to figure out what the politics is 21 in this place was before you can proceed? 22 A Well, yes, I said that every 23 organization has its own system of policies, 24 rules and regulations which represent the 25 institutional politic environment.</p>	<p style="text-align: right;">Page 60</p> <p>1 LEENA VARUGHESE 2 Varughese' performance in the first two 3 years? 4 I understand you weren't there, but 5 for at least the summary you had gotten? 6 DR. FIRPA: I went through New 7 Innovation and I pulled out the summary 8 of her performance results and 9 repeatedly many of her rotations both in 10 surgical, primarily in surgical 11 pathology, she was in many components of 12 the ACGME rated as marginal and 13 gradually she progressed to acceptable, 14 so for a while for the first two years, 15 she was in many areas she was considered 16 marginal. 17 DR. LEITER: Was there any 18 remedial work? 19 DR. FIRPA: Well, there were 20 recommendations about how to improve and 21 she was monitored in subsequent 22 assessment of similar experiences and 23 she progressed a little bit, and those 24 observations were recorded in her 25 evaluations.</p>
<p style="text-align: right;">Page 59</p> <p>1 LEENA VARUGHESE 2 And we had to beware of those 3 requirements before making any final decision. 4 Q So, how do you suppose a 5 resident who is on disciplinary action and 6 feels that they are unfairly on disciplinary 7 action feels when a person who's supposed to 8 oversee their disciplinary action process says 9 that to them? 10 What do you think is the -- what 11 do you think the resident would feel? 12 A I have no idea how they will 13 feel. If you are intelligent you will 14 understand the meaning. 15 Q Okay, I should make an 16 impression based on what you said, okay, good. 17 DR. WEINFELD: Any other 18 questions for Dr. Firpa? 19 DR. VARUGHESE: No. 20 DR. WEINFELD: Do you want to go 21 ahead and call your witnesses. 22 MR. McEVOY: I have a question, 23 normally the way -- 24 DR. LEITER: I have a question, 25 could you elaborate a little bit on Dr.</p>	<p style="text-align: right;">Page 61</p> <p>1 LEENA VARUGHESE 2 That's why she was allowed 3 eventually to proceed down the -- 4 DR. LEITER: Can I ask one more 5 question, just the other question was 6 was there a formal psychiatric 7 evaluation on the day that you felt that 8 perhaps there was some disorganized 9 behavior? 10 DR. FIRPA: We requested it, 11 that's why we called student wellness 12 and Dr. Harpaz, but she refused under 13 any circumstances to see them or 14 follow-up. 15 She insisted that she had her own 16 private physician that she'll talk to and 17 everything referred to that. 18 DR. BRONHEIM: Did you ever 19 receive a request from Dr. Varughese' 20 physicians for her to have a medical 21 leave of absence? 22 DR. FIRPA: No. She never 23 followed through, that's what we kept 24 waiting for and waiting for and she 25 never, and I kept telling her, you have</p>

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<p>1 LEENA VARUGHESE 2 to have a formal request and a doctor's 3 note, either clearance to return or see 4 student wellness, you cannot return to 5 work. 6</p> <p>7 DR. WEINFELD: You wanted to say? 8 DR. ROCCO: The written 9 evaluations that you discussed from New 10 Innovations, are they included in your 11 Exhibit?</p> <p>12 DR. FIRPA: No. 13 DR. ROCCO: Why not? 14 DR. FIRPA: They were preceded. 15 DR. ROCCO: Why not? 16 DR. FIRPA: No. 17 DR. ROCCO: Why not? 18 DR. FIRPA: Because they preceded 19 the issues that led to her dismissal 20 which were the events following her 21 final warning on July 15th, disciplinary 22 actionings had been taken before. 23 DR. WEINFELD: Did you want to 24 add something? 25 MR. McEVOY: Two things, I guess.</p>	<p>1 LEENA VARUGHESE 2 its opening statement, if you will, before 3 the witnesses are called, the resident, in 4 this case Dr. Varughese, is permitted the 5 opportunity to make an opening statement 6 before we actually call witnesses. 7 She can decline to do that, 8 obviously, but I think she gets that 9 opportunity. 10 MR. MacDONALD: Well, that's 11 fine, but I understood that this was 12 also testimony. 13 MR. McEVOY: It is. 14 MR. MacDONALD: Is this an 15 opening statement plus testimony? 16 MR. McEVOY: Yes. 17 MR. MacDONALD: So you are asking 18 Dr. Varughese, which is appropriate, and 19 you can respond as you wish, Dr. 20 Varughese, as to whether you would like 21 to make an opening statement before we 22 proceed to the witnesses of the 23 Department. 24 Or you can wait until your 25 presentation, if you wish.</p>
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<p>1 LEENA VARUGHESE 2 One is just because the question was 3 raised about timing, the position of the 4 Department is that everything that 5 happened before July 15th of 2011 which 6 is when Dr. Cordone-Cardo gave her the 7 final warning is largely irrelevant to 8 this proceeding. 9 We are not here to talk about why 10 she got a final warning, why she got an 11 academic advisement, what her ratings were 12 during the first two years. 13 Her final warning is her final 14 warning. That's the record. 15 She did not appeal from it, so what 16 I think the committee is here to consider 17 is what happened after the final warning 18 until she was terminated that either did 19 or didn't sustain the decision to 20 terminate her, that's I think what is 21 appropriate for the committee to look at. 22 Secondly, which is just a 23 procedural point, is that normally in 24 these hearings in my experience after the 25 Department makes its opening presentation,</p>	<p>1 LEENA VARUGHESE 2 DR. VARUGHESE: I would just like 3 to respond to the counsel for the 4 department. 5 MR. MacDONALD: Okay. 6 DR. VARUGHESE: It's just that 7 you are saying me being on disciplinary 8 action is irrelevant, but in fact 9 without that particular aspect this 10 whole situation would be arbitrary and 11 capricious, and I think we have all read 12 through the summary suspension letter 13 and we can review it again, it's not 14 enough to get anybody fired or suspended 15 or terminated. 16 MR. McEVOY: That's a perfectly 17 legitimate position for Dr. Varughese to 18 take if she says what happened between 19 July 15th and September 21st is not 20 sufficient to warrant termination, 21 that's a legitimate position for her to 22 take. 23 MR. MacDONALD: We understand 24 that and we understand that is going to 25 be your presentation, if you have</p>

<p style="text-align: right;">Page 66</p> <p>1 LEENA VARUGHESE 2 anything to say now as a preliminary 3 statement you are free to do so, or we 4 can now proceed to the witnesses for the 5 department.</p> <p>6 Shall we proceed in that way, Dr. 7 Varughese?</p> <p>8 DR. VARUGHESE: Okay.</p> <p>9 MR. McEVOY: I shall get the 10 first witness.</p> <p>11 DR. WEINFELD: I don't know if 12 you narrowed the list since Friday, but 13 you would know the answer, there are no 14 witnesses on both sides?</p> <p>15 DR. VARUGHESE: No.</p> <p>16 DR. WEINFELD: Of the 20 17 witnesses, are any of the witnesses the 18 same as the Department is calling?</p> <p>19 DR. VARUGHESE: Since the 20 Department is already calling certain 21 witnesses, I figured I will just 22 follow-up after.</p> <p>23 DR. WEINFELD: So is it --</p> <p>24 DR. VARUGHESE: I was planning on 25 cross-examining them, not necessarily</p>	<p style="text-align: right;">Page 68</p> <p>1 LEENA VARUGHESE 2 DR. VARUGHESE: I do, actually. 3 DR. WEINFELD: I want to make 4 sure you have access to what they are 5 looking at.</p> <p>6</p> <p>7 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>8</p> <p>9 Q Dr. Najfeld, good evening. 10 A Good evening.</p> <p>11 Q Would you state your employment 12 here at Mount Sinai and your position? 13 A I am a professor of pathology 14 and medicine and I am director of tumor 15 cytogenetics laboratory at the Mount Sinai 16 Hospital and professor in the Mount Sinai 17 School of Medicine.</p> <p>18 Q Thank you. 19 Would you describe for the 20 benefit of all of us in very general terms what 21 is tumor cytogenetics? 22 A The tumor cytogenetics is a 23 study of chromosomes in cancer cells and it's 24 these days used for diagnostic as well as for 25 therapeutic purposes, particularly in patients</p>
<p style="text-align: right;">Page 67</p> <p>1 LEENA VARUGHESE 2 call them as a witness.</p> <p>3 DR. MARIN: Are there 20 4 witnesses out there waiting?</p> <p>5 DR. VARUGHESE: I'm not sure if 6 they are all here.</p> <p>7 MR. MacDONALD: Where is our 8 witness sitting.</p> <p>9 MR. MacDONALD: Dr. Firpa, will 10 you be questioning the witness?</p> <p>11 DR. FIRPA: Yes, sir.</p> <p>12 MR. MacDONALD: Okay.</p> <p>13</p> <p>14 V E S N A N A J F E L D, called as a 15 witness, having been first duly affirmed 16 by the Notary Public, was examined and 17 testified as follows:</p> <p>18</p> <p>19 MR. McEVOY: Can the witness be 20 given a set of the Department's 21 exhibits, because I think there are 22 certain exhibits in there that Dr. Firpa 23 is going to ask her to look at.</p> <p>24 DR. WEINFELD: Dr. Varughese, do 25 you have a copy of these?</p>	<p style="text-align: right;">Page 69</p> <p>1 LEENA VARUGHESE 2 with hematological malignancies, as well as 3 some solid tumors.</p> <p>4 Q Have you ever had Dr. Varughese' 5 rotate through your laboratory? 6 A Yes. Twice.</p> <p>7 Q When? 8 A She rotated in August of this 9 year, the second rotation and apparently -- for 10 two weeks, and apparently the first rotation 11 was about two years before that, which we have 12 very little documentation about that, we have 13 very good documentation about August 2011.</p> <p>14 Q At the time of this rotation 15 when she began, were you aware of Dr. 16 Varughese' disciplinary history or of any 17 problems with her performance and conduct? 18 A None whatsoever.</p> <p>19 Q Was there an incident regarding 20 Dr. Varughese' clinical case presentation on 21 August 9th, and if so, please correct the 22 incident? 23 A She was asked, most of the 24 residents who rotate through the lab basically 25 get a case per week to present.</p>

<p style="text-align: right;">Page 70</p> <p>1 LEENA VARUGHESE 2 At the center for clinical 3 laboratories, clinical case presentations. 4 She was no exception to this 5 rule, she got the case I think within the first 6 day or two of the rotation.</p> <p>7 She was asked to show me the 8 presentation by Friday, she took two days after 9 work to present -- to prepare for the case, 10 most of the residents basically do that in 11 their spare time in the evening.</p> <p>12 On Friday before Tuesday 13 presentation she did come to consult me about 14 the presentation, I was not in the office for 15 that 5 minutes.</p> <p>16 I was told that she came at 3:00 17 in the afternoon and so I was hoping she was 18 going to come back and she never did, so the 19 presentation was sent to me on Monday at 4:00 20 in the afternoon, she did not pick up the 21 images on Friday from the lab, and I said this 22 is the case I'm going to present tomorrow.</p> <p>23 I looked at the case and I tried 24 to call her, indicating that the case was not 25 of sufficiently good quality.</p>	<p style="text-align: right;">Page 72</p> <p>1 LEENA VARUGHESE 2 place the following week, as long as you make 3 sure that you tell everybody because people 4 come from various parts early in the morning 5 for the presentation.</p> <p>6 There was no e-mail informing 7 the faculty of the center of clinical labs that 8 the presentation will not take place.</p> <p>9 I e-mailed her on Tuesday at I 10 think 6:20 or 6:30, please make sure that it's 11 e-mailed to all the faculty so they don't have 12 to waste time.</p> <p>13 I must have twice sent twice or 14 three times this e-mail, nothing happened.</p> <p>15 And finally I got an e-mail at 16 10:00 only directed to me and saying there is 17 not going to be a presentation.</p> <p>18 To me, who actually knew all 19 about it.</p> <p>20 At 9:00 when the presentation 21 was taking place everybody was asking is there 22 a presentation today?</p> <p>23 Leena was there and never 24 actually said I'm sorry, I was supposed to give 25 a talk, but I'm not ready today, we will do it</p>
<p style="text-align: right;">Page 71</p> <p>1 LEENA VARUGHESE 2 I couldn't find Leena in the 3 residents' office, I couldn't -- she did not 4 respond to the page, I called Dr. Firpa, I said 5 I'm looking for Leena because I need to get in 6 touch with her.</p> <p>7 So, he gave me another number 8 and I finally got to the residents' room and I 9 said can I leave a message for Leena to call me 10 back.</p> <p>11 Which she did in about half an 12 hour, and I said Leena, this presentation is 13 not of sufficient quality to be presented 14 tomorrow.</p> <p>15 Can you come and we can work on 16 it?</p> <p>17 She says -- this is Monday at 18 about 4:15, 4:30, she says no, I'm out of Mount 19 Sinai.</p> <p>20 I said that's fine, I'll be here 21 until 6:00, come over and we can work on it.</p> <p>22 I cannot come back to Sinai.</p> <p>23 So I said if you cannot, this is 24 not going to -- the presentation will not take 25 place tomorrow, which is fine, it can take</p>	<p style="text-align: right;">Page 73</p> <p>1 LEENA VARUGHESE 2 next week.</p> <p>3 She sat there, never answering 4 to the director of the lab who sat there and 5 said I'm sorry, it's not going to take place.</p> <p>6 Q May I call your attention to the 7 Exhibit 5.</p> <p>8 A I don't know where I am supposed 9 to look here, actually.</p> <p>10 MR. McEVOY: Behind tab number 5.</p> <p>11 Q There is tab number 5.</p> <p>12 A Okay, got it.</p> <p>13 Q Would you look through them and 14 tell us how that content relates to what you 15 just told us?</p> <p>16 A This is fine. It's now pages 17 and pages, yes.</p> <p>18 Q Just tell us what it represents.</p> <p>19 A So there is at page, I guess --</p> <p>20 at some point my e-mail to her on Monday, 21 August 8th, do you want me to read this?</p> <p>22 Q No, just give us in general 23 terms what those demonstrate?</p> <p>24 A This e-mail says Leena, you were 25 supposed to take the patient's images on Friday</p>

<p style="text-align: right;">Page 74</p> <p>1 LEENA VARUGHESE 2 from my staff, you had a whole day today and 3 never came to take the images. 4 The reason we present the case 5 is for educational purposes and the patient's 6 images are presented as a part of this learning 7 experience. 8 This refers to the fact that she 9 did not take the images from these patients but 10 downloaded from somewhere, which is really not 11 the reason why we actually have case 12 conferences. 13 The case conferences refer and 14 the images are very specific for that patient. 15 If I was not here at 3:00 p.m. 16 when you stopped by, you should have written me 17 a note and I would have called you the moment I 18 came in. 19 Meanwhile, I left since 4:18 20 p.m. a number of e-mails and messages only to 21 find out that you left at 5 p.m. and would not 22 return to Sinai to work with me on this 23 presentation. 24 I was willing to work with you 25 until 6:00 p.m., I think a lot more work needs</p>	<p style="text-align: right;">Page 76</p> <p>1 LEENA VARUGHESE 2 presentation. 3 DR. WEINFELD: And what was her 4 response? 5 THE WITNESS: I cannot remember 6 exactly, so I am not going to impose, 7 but I remember asking this question. 8 She may remember, I can't remember, 9 really. 10 Q Was it related to her knowledge 11 about the field, pathology in general, the fact 12 that she had rotated through your lab before, 13 did her behavior and knowledge that she 14 exhibited in your rotation reflect any growth 15 or knowledge at all in the field? 16 A I think somewhere here during 17 our little tutorial, we came upon the 18 definition of what should be a stat case for 19 this lab -- I'm sorry, what should be the stat 20 case for our lab. 21 And I said we don't have too 22 many stat cases that needs instant attention, 23 but one of the leukemia that it is APL, acute 24 promyelocytic leukemia. 25 So I asked Leena to tell me the</p>
<p style="text-align: right;">Page 75</p> <p>1 LEENA VARUGHESE 2 to go into this presentation and let's try for 3 the next week. 4 Thanks, Vesna. 5 Q Did you consider that the work 6 reflected in the presentation submitted to you 7 was compatible with her level of training? 8 A No. Fourth year resident. 9 Q How would you assess -- 10 DR. BRONHEIM: Could you explain 11 your no? 12 THE WITNESS: I think the fourth 13 year resident in pathology should not -- 14 should know how to give a presentation. 15 To take patients out images, I 16 don't think this is a teaching for the 17 fourth year, this is maybe for the first 18 year resident. 19 DR. BRONHEIM: I thought you were 20 referring to content? 21 THE WITNESS: I actually at some 22 point asked Leena out of this context, 23 did anybody spend any time with her 24 teaching her how to present a case, 25 because I was so appalled by this</p>	<p style="text-align: right;">Page 77</p> <p>1 LEENA VARUGHESE 2 definition of APL. 3 Her response was I have done 4 hematopathology a few years ago. 5 So I said, that's fine, why 6 don't you look it up and let me know tomorrow. 7 8 I have never got an answer to 9 this very day what's the definition of APL. 10 Q Overall, how would you rate Dr. 11 Varughese' attendance during her rotation at 12 your lab? 13 A Well, I mentioned earlier two 14 days immediately was taken off from the 15 rotation to prepare the case. 16 I think this is in my view out 17 of two weeks unacceptable, one day she called 18 in sick, that's a third day, so it's two weeks, 19 it's like ten working days. 20 In the ten working days at least 21 six steps have to be done so somebody should 22 pass the rotation, so the last day of her 23 rotation was also the day when I was asked by 24 anatomic pathology people to spare her because 25 there was an emergency there in the afternoon.</p>

<p style="text-align: right;">Page 78</p> <p>1 LEENA VARUGHESE 2 So in the morning was her 3 basically the last day there, so it was like 4 three and a half days of the ten days rotation 5 that she wasn't there. 6 I don't think she ever came at 7 9:00 in the morning to the lab, most of the 8 time it was 10:30, she was told one morning on 9 Wednesday to come at 1:00 because we have lab 10 meetings and my entire lab knows at 1:00 11 Wednesday is 1:00 sharp, she walked in at 1:30. 12 It's called poor attendance and 13 not on time.</p> <p>14 Q Now, you said on her last day of 15 rotation there was an incident that she was 16 taken off the rotation during the afternoon.</p> <p>17 Can you tell us more about what 18 you observed related to that?</p> <p>19 A First of all, prior to her 20 coming to the lab there was -- I had a number 21 of e-mails from the chief resident and 22 everybody else, has Leena arrived to the lab 23 and I kept saying no, and it was nothing 24 unusual, she has never come before 10:30 in the 25 lab, to the lab.</p>	<p style="text-align: right;">Page 80</p> <p>1 LEENA VARUGHESE 2 him in front of my entire lab staff was not 3 very nice. 4 And everybody in the lab was a 5 little bit basically made comments that this is 6 not how you talk to anybody, and that they had 7 no idea who Pat Lento is. 8 So they didn't know, you know, 9 what is his relationship to Leena, but they 10 realized that the type of conversation was 11 going on was not very respectful, that much I 12 can tell you. 13 And while the supervisor was 14 trying to squeeze any minute before noon, I 15 moved and went to my office, and she said I 16 don't know why I'm doing this, it's really a 17 waste of my time. 18 I am only five feet away, so I 19 heard all of that. 20 I decided not to intervene 21 because there was nothing more I can say. 22 In my view even if something -- 23 we all learned a few things in life that we 24 thought maybe we didn't have to, but even if 25 something is a waste of time, you don't spell</p>
<p style="text-align: right;">Page 79</p> <p>1 LEENA VARUGHESE 2 At 10:30 I think she walked in 3 and we told her, that although I understand 4 that she has to help in anatomic pathology in 5 the afternoon, she got to finish her few 6 karyotypes. 7 And I put her intensely to work 8 alone as well as with a supervisor onto work on 9 that.</p> <p>10 At some point Dr. Pat Lento 11 called me and says is Leena in the lab? 12 I said yes. 13 Would you ask her to come on the 14 phone? I said I'm sorry, I'm not her 15 secretary. 16 If you need her, page her. 17 Which he proceeded to do and she 18 didn't answer the page because I was standing 19 next to her, I heard her page going and she did 20 not answer. 21 So then he called back and says 22 could you please get her? 23 So I said what can I do? Of 24 course I will. 25 Okay, so her conversation with</p>	<p style="text-align: right;">Page 81</p> <p>1 LEENA VARUGHESE 2 it out in front of the entire lab staff, it's a 3 bad morale for the lab.</p> <p>4 Q Let me call your attention to 5 Exhibit 4.</p> <p>6 He addresses the following 7 concern, what is your role evaluation of Dr. 8 Varughese' performance in your rotation 9 regarding professionalism.</p> <p>10 What does the exhibit represent, 11 briefly?</p> <p>12 A Well, the exhibit is basically 13 the summary of my thoughts about her. 14 And I'm just going to give one 15 example, sort of put our relationship 16 immediately wrong, so to speak wrong. 17 I actually spend time with the 18 residents, I give them tutorials, I really 19 dedicate myself to this education. 20 And I was giving Leena a 21 tutorial with a computer screen all with 22 chromosomes, genes and everything else. 23 And she is on a Blackberry and I 24 said put this Blackberry back, because this is 25 very disrespectful to me personally.</p>

<p style="text-align: right;">Page 82</p> <p>1 LEENA VARUGHESE 2 She put it back, 5 minutes later 3 she's on the Blackberry. 4 And I said Leena, put this 5 Blackberry, I don't want to see this. 6 This by the way happened almost 7 every day. 8 This I don't call -- it's a 9 personal insult to me and to everybody else who 10 takes the time and invests time to teach, so 11 this is called unprofessional. 12 I think coming late to the lab 13 is unprofessional. 14 Calling in sick when you're 15 supposedly presenting the case is 16 unprofessional. 17 Having total lack of enthusiasm 18 and ambition, fourth year resident should be 19 excited about the life ahead of it, and not to 20 be totally excited at anything and then when 21 you are asked go home and look what's APL, one 22 sentence definition, just come back to your 23 person who is teaching you and say I looked it 24 up, I know what it is, isn't that exciting? 25 There was nothing of that.</p>	<p style="text-align: right;">Page 84</p> <p>1 LEENA VARUGHESE 2 first day? 3 A Yes. 4 Q The second day? 5 A No, because you took some days 6 off to prepare the case. 7 Q No, I didn't. 8 A Yes, you did. You have asked 9 me, you have asked me to take the time off to 10 prepare the case. 11 Q I have asked you if I could go 12 to the library and just work. 13 A That's right, so you were not 14 there. 15 Q Or I was at the residents' room? 16 A I don't know where you were. 17 You were not where you are supposed to be, the 18 computer is there for the residents. 19 Q Okay. 20 So, do you realize your staff 21 e-mails me every day and tells me what to do 22 for the rest of the day? 23 A Um-hum. 24 Q So, you do realize the staff 25 tells me when to come into the lab?</p>
<p style="text-align: right;">Page 83</p> <p>1 LEENA VARUGHESE 2 DR. FIRPA: Okay, I have no 3 further questions. 4 DR. WEINFELD: Dr. Varughese, 5 would you like to ask questions? 6 7 CROSS-EXAMINATION BY DR. VARUGHESE: 8 9 Q So, how do you manage, how do 10 you keep track of the residents' time when the 11 residents' are in your lab, what do you do? 12 A As I just mentioned, you realize 13 where I am sitting, so I can actually see 14 what's going on straight from the imaging lab 15 to the tissue culture lab, except for the fish 16 lab, so I actually can observe very much and 17 you were not necessarily on fish rotation this 18 time; correct? 19 Q I was, actually. 20 A For a few hours. 21 Q For several days here and there. 22 A But primarily karyotypes, that's 23 imaging lab sitting right in front of me, so I 24 can actually see what's going on. 25 Q So, did you observe me there the</p>	<p style="text-align: right;">Page 85</p> <p>1 LEENA VARUGHESE 2 A Um-hum. 3 Q And what activities I'm supposed 4 to do each day? 5 A Um-hum. 6 Q Do you realize there were 7 certain days where your staff asked me not to 8 come into the lab? 9 A No. 10 Q Okay, there were, that's why I 11 was not there. 12 A Okay. Can we have documentation 13 for that? 14 Q Yeah I have documentation of 15 that. 16 DR. MARIN: Is it in this 17 exhibit? 18 DR. VARUGHESE: Let me just see. 19 It's not, but I will add it to the 20 exhibit. 21 MR. McEVOY: No, I object to 22 this. Let me state this objection. 23 DR. VARUGHESE: You are allowed 24 to ask -- 25 MR. McEVOY: I can object, Dr.</p>

<p style="text-align: right;">Page 86</p> <p>1 LEENA VARUGHESE 2 Varughese. I have done a lot of these 3 in my time. 4 Here is my objection, the Committee 5 directed Dr. Varughese to provide a list 6 of her exhibits by the close of business 7 on Thursday or Friday. Dr. Varughese chose 8 to ignore that without any explanation, 9 without any requests for an extension. 10 She e-mailed the Committee 47 11 exhibits three hours before this hearing 12 was scheduled to start. Dr. Varughese has 13 had an enormous amount of time to prepare 14 her exhibits, she chose to ignore the 15 Committee's request. 16 Just when she felt like it, she 17 sent 47 exhibits. 18 And now, twice she has raised oh, I 19 have documentation that proves that what 20 she's known about from the termination 21 letter is the issues in this case and what 22 she says is oh, I'll give those to you 23 later, we will submit those later. 24 I don't think that's 25 appropriate. Dr. Varughese had plenty of</p>	<p style="text-align: right;">Page 88</p> <p>1 LEENA VARUGHESE 2 request that it be submitted at some 3 point, I don't think that's me asking 4 for too much. 5 Even though you correctly stated 6 that you didn't have time to review. 7 MR. McEVOY: I have said what I 8 have to say. 9 DR. WEINFELD: Okay 10 DR. VARUGHESE: On another note, 11 I was also not informed this hearing -- 12 DR. WEINFELD: Wait one second, 13 we have a witness on the stand. Let's 14 deal with the witness. 15 DR. VARUGHESE: Sure. 16 Q All right, so your staff is, in 17 fact, responsible for when I'm working with 18 them, and you know that? 19 A What's the question? 20 Q So that you know that your staff 21 is going to be -- 22 A I am well aware what my staff is 23 doing. My staff is doing based on my 24 instructions. 25 Q Good.</p>
<p style="text-align: right;">Page 87</p> <p>1 LEENA VARUGHESE 2 time to submit these exhibits, there is 3 nothing surprising about these exhibits, 4 and the Department objects to Dr. 5 Varughese sort of setting her own schedule 6 and her own time to submit exhibits. 7 And, quite frankly, it's 8 prejudicial to the Department to expect 9 them and us to review 47 exhibits in three 10 hours and be prepared to respond to them, 11 and now exhibits are just kind of coming 12 from well, I have them and I'll give them 13 to you some time, some way, in some 14 context; it's not appropriate. 15 DR. VARUGHESE: Fine, that's 16 wonderful, but here is can I make a 17 point -- 18 MR. McEVOY: It's not wonderful, 19 it's correct. 20 DR. WEINFELD: That's enough. 21 DR. VARUGHESE: Okay, that's not 22 what I meant to say, the point is this 23 hearing is basically for my job, so if I 24 want to say there is evidence even 25 though I didn't put it in there, and</p>	<p style="text-align: right;">Page 89</p> <p>1 LEENA VARUGHESE 2 A I am totally aware of that. 3 Q So, there have been times where 4 they have asked me not to come in? 5 A Correct, but they would ask you 6 to come in maybe a little bit later, or not. 7 When they told you the lab 8 meeting is at 1:00, the lab meeting is at 1:00, 9 you would come at 1:30, that's disrespect to 10 me. 11 Forget about the lab meeting and 12 anybody else. 13 Q What date was that? 14 A Wednesday. Whatever date day it 15 was, June, I don't know. 16 Q Okay, all right. 17 So you made a comment saying 18 that my presentation was not compatible with my 19 year of training? 20 A Um-hum. 21 Q And you said this because I used 22 cytogenetic images from the internet? 23 A Correct. 24 Q Is that correct? 25 A And you were told to come on</p>

23 (Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 LEENA VARUGHESE 2 Friday to pick up the images from the lab. 3 Q I don't think so. 4 A Yes. 5 DR. WEINFELD: Is there a 6 question? 7 Q I don't think that's true. 8 A It's all in the e-mail that I 9 sent to you, and there is -- that document. 10 Q So, the e-mail you sent to me? 11 A That's very well documented. So 12 what's the question, actually? 13 Q So basically I came to your 14 office and I couldn't find you, I was informed 15 by your staff that you would not be there 16 for -- until 4:00 p.m. or later, I waited for 17 you until 4:00 or so, I didn't see you so I 18 assumed that I'll e-mail you documentation. 19 A You e-mailed the documentation 20 on Monday, this is Friday. 21 Q So I e-mailed you everything on 22 Friday? 23 A No. 24 Q Including my presentation? 25 A No, on Monday.</p>	<p style="text-align: right;">Page 92</p> <p>1 LEENA VARUGHESE 2 addresses the problems here. 3 DR. WEINFELD: No, no, that 4 wasn't my question, my question -- 5 DR. MARIN: Am I looking at the 6 right thing? I have a e-mail from Dr. 7 Adolfo -- 8 DR. VARUGHESE: Yes, that's it. 9 DR. WEINFELD: So the question 10 was you are disputing whether you sent 11 an e-mail Friday versus Monday, how does 12 this e-mail address that question? 13 DR. VARUGHESE: I actually don't 14 have the Friday e-mail I sent to her. 15 A I do. 16 DR. VARUGHESE: Actually it's in 17 Exhibit -- 18 DR. WEINFELD: A different 19 exhibit? 20 DR. VARUGHESE: It's the exhibit 21 that's part of the Department's list. 22 MR. MacDONALD: Exhibit 5? 23 DR. VARUGHESE: Exhibit 5. 24 DR. WEINFELD: There is an e-mail 25 dated Monday, August 8th.</p>
<p style="text-align: right;">Page 91</p> <p>1 LEENA VARUGHESE 2 Q I e-mailed you my presentation 3 on Friday, right? 4 A No, on Monday. 5 Q Well, I would like to refer to 6 Exhibit 24. 7 MR. McEVOY: I don't think that 8 Dr. Najfeld has that. 9 THE WITNESS: I don't have this. 10 DR. WEINFELD: We can get you a 11 copy. 12 MR. MacDONALD: 24. 13 DR. VARUGHESE: Yes. 14 DR. WEINFELD: What does that 15 have to do with the point we are 16 discussing? 17 DR. VARUGHESE: So this is 18 basically -- 19 Q Anyway, I just want to point 20 out -- 21 THE WITNESS: I'm sorry? 22 DR. WEINFELD: You brought up the 23 point, you e-mailed on Friday, does this 24 exhibit address that issue or not? 25 DR. VARUGHESE: It sort of</p>	<p style="text-align: right;">Page 93</p> <p>1 LEENA VARUGHESE 2 MR. McEVOY: I think Dr. Najfeld 3 is confused. 4 MR. McEVOY: I am confused. 5 THE WITNESS: This is the e-mail 6 I just read, actually. 7 MR. McEVOY: This is the exhibit. 8 THE WITNESS: Yes. 9 THE WITNESS: It's Monday, August 10 8 at 4:18 p.m. 11 DR. WEINFELD: These are all 12 Monday August 8th. 13 DR. VARUGHESE: So I sent the -- 14 I apologize. 15 DR. WEINFELD: Let's move on to 16 the next point. 17 DR. VARUGHESE: It was sent on 18 Monday, not on Friday. 19 DR. WEINFELD: That's what she 20 said. 21 THE WITNESS: That's what I 22 basically said. 23 Q You are correct, you are 24 correct, so the presentation was for the next 25 morning on Tuesday morning at 9:00 a.m.?</p>

Page 94	Page 96
1 LEENA VARUGHESE	1 LEENA VARUGHESE
2 A That's exactly right. You were	2 DR. VARUGHESE: On Monday
3 supposed to come on Friday.	3 afternoon, on Monday evening and I
4 Q No, you gave me the presentation	4 wasn't sure if she was even returning
5 to do when, what day did you give me the	5 that evening because she wasn't in her
6 presentation?	6 office when I got there.
7 A Monday or Tuesday of that week.	7 THE WITNESS: I'm sorry, I think
8 Q No.	8 there is a lot of discrepancy in what
9 A Where is the documentation?	9 you are saying.
10 Q Well, here is the thing, when	10 And I could probably document this
11 did you discuss the goals and objective of the	11 further.
12 rotation with me?	12 It doesn't matter at this point, we
13 A At the beginning of the week.	13 give the cases, you took the beginning of
14 Q No. So let's refer to Exhibit	14 the week off, you were not in the lab in
15 24?	15 order to prepare the case we are talking
16 DR. WEINFELD: So what's the	16 about it.
17 question?	17 So, it cannot be the truth that I
18 DR. VARUGHESE: So this is Dr.	18 gave you the case on Thursday.
19 Firpa e-mailing Dr. Najfeld the details	19 I would not have given you a case
20 of the cytogenetics rotations and what	20 on Thursday and tell you come on Friday
21 she has to do with any resident that	21 because I have not done this ever to
22 happens to be on her -- on that	22 anybody, and I would have not made you an
23 particular elective or that rotation.	23 exception to the rule.
24 DR. WEINFELD: So what's the	24 That's number one.
25 question?	25 There is no way, I don't want to
Page 95	Page 97
1 LEENA VARUGHESE	1 LEENA VARUGHESE
2 Q Then Dr. Najfeld actually I	2 use the L word here, but this is
3 think she thinks that she discussed everything	3 absolutely not reflecting the truth and
4 with me in the beginning of the week, but in	4 the way my lab functions.
5 fact she didn't, she actually only discussed	5 And I can have the entire lab here
6 everything with me on maybe Friday, I think	6 for that.
7 Friday morning, late Thursday.	7 So, that's number one.
8 DR. MARIN: What does this have	8 Number two, I am teaching you, if I
9 to do with that? I'm not understanding?	9 am willing as your senior to stay late in
10 DR. VARUGHESE: That Dr. Najfeld	10 order to make your presentation look good,
11 was given the tumor cytogenetics	11 I can tell you that when I was a fellow I
12 requirement rotation -- rotation	12 would have never said this to my
13 requirements on Thursday, she discussed	13 professor.
14 everything pertaining to the rotation	14 Period.
15 requirements with me on Thursday	15 Lack of respect and
16 afternoon and gave me the assignment to	16 professionalism.
17 present this case for Tuesday on	17 DR. WEINFELD: So any other
18 Thursday afternoon.	18 questions?
19 DR. WEINFELD: Right, okay.	19 DR. VARUGHESE: I just want to
20 DR. VARUGHESE: Which doesn't	20 note Dr. Najfeld did e-mail Dr. Firpa
21 really give me as much time as I need	21 back and she said she was very busy that
22 to --	22 week and, you know, it has been very
23 DR. WEINFELD: So, how do you	23 difficult for us.
24 explain, though, she was willing to stay	24 DR. WEINFELD: Okay, noted.
25 to help you and you didn't even respond?	25 DR. VARUGHESE: And also on

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 LEENA VARUGHESE 2 Monday evening when I e-mailed the 3 presentation to her, but I did get her 4 messages, the e-mails and the phone 5 call, I'm not sure if she called me, but 6 it was already 5:30 or so and I was 7 already home because I had taken the 8 train home at that point, which may 9 explain why I didn't receive the page 10 from 5:00 to 5:30 or so, and it would be 11 impossible for me to have returned to 12 Mount Sinai at that point to review with 13 her in person, and I think I explained 14 that to her at that point and she 15 understood.</p> <p>16 THE WITNESS: No. 17 MR. McEVOY: There is no 18 question. 19 DR. WEINFELD: So, next question. 20 Q Did you give me an exit 21 interview on Friday? 22 A No. 23 Q You didn't give me an exit 24 interview? 25 A You were taken -- swept away, so</p>	<p style="text-align: right;">Page 100</p> <p>1 LEENA VARUGHESE 2 case, and for that person not to ever to 3 come back and tell you I know what it is, 4 I better learn this, it's a failure. 5 DR. VARUGHESE: Okay, so my 6 impression was that you did give me an 7 exit interview on Friday because you 8 asked me several questions pertaining to 9 fish and different translocations 10 associated with different diseases and I 11 think I answered you pretty competently. 12 So my impression was that that was 13 the exit interview, and karyotyping these 14 10 karyotypes was also a part -- to 15 determine that I can adequately karyotype, 16 not with expertise with someone who has 17 done cytogenetics for 30 or 40 years, no 18 one can do that, I mean I don't think 19 anybody can do that. 20 THE WITNESS: That was not 21 expected. 22 Q But I did manage to karyotype 23 adequately, no? 24 DR. MARIN: That was a question. 25 She asked you if she did an adequate job</p>
<p style="text-align: right;">Page 99</p> <p>1 LEENA VARUGHESE 2 to speak because, you had to go back to the 3 anatomic pathology, we only managed to do five 4 karyotypes and I did not give it to you. 5 You are 100 percent right. 6 DR. BRONHEIM: If you did give 7 her an exit interview, what would you 8 have told her? 9 THE WITNESS: Had I had the 10 chance and if it wasn't -- I would have 11 really told her just about everything I 12 wrote here, I wouldn't change anything. 13 I must tell you I am at Sinai 30 14 years, this is probably from the 15 educational point of view one of the worst 16 experiences I ever had had. 17 I would have told her that she 18 failed. 19 Anybody who behaved that way, with 20 so little respect for knowledge and so 21 little respect for the time we all invest, 22 I would not pass her. 23 I also feel if you ask somebody to 24 go ahead and look overnight what the 25 definition of APL is, this is our stat</p>	<p style="text-align: right;">Page 101</p> <p>1 LEENA VARUGHESE 2 with the karyotype? 3 A No, because she had a supervisor 4 sitting behind her and that's when she said I 5 don't know what I'm doing here, it's a waste of 6 my time. 7 DR. MARIN: No is sufficient. 8 DR. WEINFELD: Any other 9 questions for Dr. Najfeld? 10 DR. VARUGHESE: No. 11 MR. MacDONALD: Any further 12 questions. 13 DR. WEINFELD: Any further 14 questions from the Department? 15 DR. FIRPA: Yes, permission to 16 redirect. 17 18 REDIRECT EXAMINATION BY DR. FIRPA: 19 20 Q May I bring your attention to 21 her Exhibit 24. 22 A That's this. 23 Q Second page. 24 A Your response to me on Thursday 25 August 4th, would you please read the second</p>

26 (Pages 98 to 101)

Page 102	Page 104
1 LEENA VARUGHESE 2 sentence in that e-mail? 3 A Oh, thank you, the second 4 sentence says, "We have given her to read and 5 told her about the case presentation for the 6 next week." 7 So I told you this on August 8 4th. 9 DR. VARUGHESE: So you told me at 10 least on August 4th? 11 THE WITNESS: Okay, not on 12 Thursday, a week later. 13 DR. VARUGHESE: But I don't think 14 you told me. 15 THE WITNESS: You've got to be 16 truthful; it pays in life, trust me. 17 DR. VARUGHESE: But you didn't 18 tell me on Tuesday. 19 THE WITNESS: I am reading from 20 Exhibit -- 21 DR. VARUGHESE: 24, you are 22 saying that you cannot -- 23 THE WITNESS: We have given her 24 to -- this is August 4th, Thursday. 25 DR. WEINFELD: Thursday.	1 LEENA VARUGHESE 2 do you deny saying that this rotation 3 was a waste of time? 4 DR. VARUGHESE: Yes. 5 DR. WEINFELD: Okay. 6 DR. VARUGHESE: I didn't think 7 the rotation was a waste of time at all. 8 In fact, I offered to work further 9 with her in the future on another two 10 weeks if she felt that my competency level 11 on cytogenetics was not adequate and I 12 said this to Dr. Firpa after the 13 conference the following Tuesday morning. 14 I also offered to write a paper 15 because I had a very interesting case that 16 was in my first year on pediatric 17 pathology that I had this case where they 18 covered a novel translocation. 19 So I actually was interested in 20 that particular case and I was considering 21 writing it up, but I just didn't feel 22 comfortable after this approaching her 23 about it. 24 DR. WEINFELD: Any other 25 questions for Dr. Najfeld, or can we
Page 103	Page 105
1 LEENA VARUGHESE 2 DR. MARIN: This does not 3 identify the time that it was given. 4 THE WITNESS: Okay, I'm so sorry. 5 DR. MARIN: It validates at least 6 by Thursday it was done. 7 DR. VARUGHESE: Or at least she 8 planned on telling me. 9 DR. BRONHEIM: No, it says, "We 10 have given her." 11 DR. VARUGHESE: "We have given 12 her to read and told her about the 13 presentation for the next week." 14 DR. MARIN: But you are cc'd on 15 this e-mail, so you would have received 16 this then. 17 DR. VARUGHESE: Yes. 18 DR. MARIN: So. 19 DR. VARUGHESE: My point is she 20 was saying she was very busy with 21 equipment upgrades and this is after Dr. 22 Firpa sent her this e-mail asking her to 23 discuss cytogenetic requirements with 24 me. 25 DR. WEINFELD: I have a question,	1 LEENA VARUGHESE 2 excuse the witness? 3 Thank you. 4 DR. BRONHEIM: Thank you very 5 much for your time. 6 MR. MacDONALD: Steve, maybe we 7 need to take a witness out of sequence, 8 Dr. Varughese, Scott Barnett whom you 9 have called as a witness has to leave by 10 8:00 or 8:15, maybe we should take him 11 out of sequence so that -- 12 DR. WEINFELD: He's being called 13 by the Pathology Department? 14 MR. MacDONALD: By Dr. Varughese, 15 but -- 16 DR. WEINFELD: At this rate we 17 probably should, if that's okay. 18 MR. MacDONALD: So is that okay 19 if we do that? 20 DR. FIRPA: No objections. 21 MR. MacDONALD: Okay. 22 I think we should try to 23 accommodate, obviously, as many of the 24 witnesses as possible given the schedule 25 and the time, et cetera.

<p style="text-align: right;">Page 106</p> <p>1 LEENA VARUGHESE 2 DR. VARUGHESE: So I am a little 3 bit concerned now, it's 7:36, it's past 4 7:30 p.m., so -- 5 DR. WEINFELD: What's your 6 question. 7 DR. VARUGHESE: How long do you 8 think this process will take, or do we 9 convene on another day if -- 10 MR. MacDONALD: Well, we should 11 go as far as we can go, and the 12 Department has several more witnesses. 13 DR. MARIN: You have 20 witnesses 14 that you called in to hear that we 15 should really -- 16 MR. MacDONALD: You have 20, the 17 Department has -- we want to take Scott 18 Barnett out of sequence because he has 19 to leave at 8:15. 20 He is Dr. Varughese' witness and I 21 understand that you have no objection, so 22 we should bring him in here and let him 23 testify. 24 MR. McEVOY: Just so the 25 Committee is aware, there is another</p>	<p style="text-align: right;">Page 108</p> <p>1 LEENA VARUGHESE 2 follows: 3 4 DR. WEINFELD: This is Dr. 5 Varughese' witness, but obviously the 6 Department will have a chance to ask 7 questions as well. 8 Why don't we proceed. 9 10 DIRECT EXAMINATION BY DR. VARUGHESE: 11 12 Q Thank you for appearing. 13 So my question, have I brought 14 concerns to you over the past year or so? 15 A Yes. I believe we met at least 16 twice. 17 DR. MARIN: When were the dates 18 of those, is it over a year that's been 19 going on? 20 THE WITNESS: I would have to 21 consult my calendar. I could look it 22 up, but I don't have the dates in front 23 of me. 24 DR. LEITER: Prior to August? 25 THE WITNESS: Certainly if you</p>
<p style="text-align: right;">Page 107</p> <p>1 LEENA VARUGHESE 2 witness here who is Dr. Varughese' 3 witness who I don't know what her 4 schedule is, but there are a whole bunch 5 of folks here who have other things to 6 do. 7 So I don't have an objection to 8 Dr. Barnett, but I do have an objection to 9 presenting this case out of sequence other 10 than for Dr. Barnett, and I'll be candid, 11 Karen Tiger is here as her witness. 12 If Ms. Tiger goes on at 1:00 this 13 morning, if she goes on at 1:00 this 14 morning there is no reason why the 15 witnesses for the Department should be any 16 more inconvenienced than the witnesses for 17 Dr. Varughese. 18 So I have no objection to 19 Dr. Barnett, but that's the only witness 20 that I don't have an objection to being 21 out of sequence. 22 23 S C O T T B A R N E T T , called as a 24 witness, having been first duly sworn by 25 witness was examined and testified as</p>	<p style="text-align: right;">Page 109</p> <p>1 LEENA VARUGHESE 2 wish to I could look it up. 3 4 DR. MARIN: Yes. 5 DR. BRONHEIM: Is there any time 6 after August? 7 THE WITNESS: Same response, I 8 have to look it up. 9 10 DR. WEINFELD: Dr. Varughese, do 11 you have any dates that would make it 12 easier? 13 DR. VARUGHESE: Yes, September 11 14 we met at noon. 15 DR. WEINFELD: September 11 of 16 this year. 17 DR. WEINFELD: Scott, does that 18 click with your calendar? 19 THE WITNESS: I have Monday, May 20 16th is the first time and I have 21 September 12th or September 11th was a 22 Sunday. 23 DR. WEINFELD: Okay. 24 THE WITNESS: Those are the two 25 dates. 26 DR. WEINFELD: Go ahead. 27 DR. BRONHEIM: Could you just</p>

<p style="text-align: right;">Page 110</p> <p>1 LEENA VARUGHESE 2 state for the record in what capacity? 3 THE WITNESS: I am the Associate 4 Dean for Graduate Medical Education and 5 our office oversees the residency and 6 fellowships here and at our affiliated 7 institutions.</p> <p>Q So, did I bring a concern to you about my concern about being treated fairly while I was on disciplinary action to you?</p> <p>A You did.</p> <p>Q Can I ask what you thought about that?</p> <p>Is that a question that I can ask what you thought about?</p> <p>A Well, if you ask me what I thought about your coming to me, I'm certainly happy to meet with all house officers and make it very clear, orientation and Chief Residents are told in every forum that I am among the resources that are offered to house staff who have concerns about their training, including, among others, the institutional ombudsman, Dr. Stimmel and Human Resources, but I'm certainly always happy to meet with house staff.</p>	<p style="text-align: right;">Page 112</p> <p>1 LEENA VARUGHESE 2 DR. FIRPA: No questions. 3 DR. WEINFELD: Scott, thank you very much. 4 THE WITNESS: You are quite welcome. 5 DR. WEINFELD: Let's get back to our regular scheduled witness schedule. 6 MR. MACDONALD: Can we go off the record. 7 (Discussion off the record.)</p> <p>13 A D R I E N N E C. J O R D A N, called as a witness, having been first duly sworn by the Notary Public, was examined and testified as follows:</p> <p>18 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>Q Would you please state your job title?</p> <p>A I am a postgraduate year 3 anatomic and clinical pathology resident, as well as Chief Resident of the Department of Pathology, one of the Chief Residents.</p>
<p style="text-align: right;">Page 111</p> <p>1 LEENA VARUGHESE 2 Q So I told you I was concerned about Dr. Firpa not being able to oversee the disciplinary action? 3 A I don't recall that, but, I do remember you talking to me and having concerns and I explained to you that my role in the institution, as I understand it, is to make sure that institutional and departmental policies and procedures were being adhered to and that I was not a judge or a jury, but my job was to ensure that people were being treated fairly and that I either at that first meeting or second meeting, I do remember stating that in my view that I did feel that departmental policies and procedures were being followed.</p> <p>Q What's your opinion of the Department of Pathology?</p> <p>DR. WEINFELD: That's not relevant, I'm going to direct him not to answer that question.</p> <p>What other questions do you have?</p> <p>DR. VARUGHESE: That's all.</p> <p>DR. MARIN: Thank you.</p>	<p style="text-align: right;">Page 113</p> <p>1 LEENA VARUGHESE 2 Q And your formal employment is? 3 A Sorry? 4 Q And you are employed by? 5 A Mount Sinai Hospital. 6 Q What year of residency are you in? 8 DR. WEINFELD: She already said that. 10 Q Do you know Dr. Varughese? 11 A I do. 12 Q Would you describe your job duties as part of the responsibility of Chief Resident. 15 A I am charged with enforcing and making sure that Department and hospital policies, institutional policies are equally distributed -- equally enforced amongst all the residents, as well as ensuring appropriate supervision of our junior residents, basically arranging for coverage and that sort of thing when a resident is absent, scheduling issues and things of that nature. 24 Q How do you know Dr. Varughese? 25 A She was one of our postgraduate</p>

<p style="text-align: center;">Page 114</p> <p>1 LEENA VARUGHESE 2 year 4 residents in the pathology program. Q Did you have any problem over coverage issues on August 5th? A I had a resident call out sick on August 5th. Unfortunately this resident had been ill multiple times during her surgical pathology month and so we have a policy in place for residents who call out sick.</p> <p>10 Basically it dictates an order 11 in which we pull residents to cover our other 12 services so that we have the same residents 13 aren't getting asked to cover over and over 14 again.</p> <p>15 Because this resident had been 16 out so many times, I had now gotten down to the 17 rotation where Dr. Varughese had to cover for 18 the absent resident.</p> <p>19 Q Was Dr. Varughese aware of this 20 and of other departmental policies and if so, 21 how?</p> <p>22 A She was aware, we discussed the 23 new policies that were going into place for the 24 year at a resident meeting, which Dr. Varughese 25 was not able to make, she was on vacation, it</p>	<p style="text-align: center;">Page 116</p> <p>1 LEENA VARUGHESE 2 Q Did you need Dr. Varughese to 3 cover the the frozen section room on August 4 5th? 5 A I did. 6 Q Why? 7 A The residents, like I said, had 8 called out sick multiple times, I had rotated 9 through several other residents in order of the 10 policy and the next person to be pulled 11 according to the policy was Dr. Varughese. Q How did you tell Dr. Varughese 13 that she needed to cover the service? 14 A I contacted her by e-mail -- I 15 contacted her by e-mail, I'm not entirely 16 positive if it was the night before or the 17 morning of. Q What was her response to that 19 e-mail? 20 A She said that her initial 21 response was she could not cover. Q Did she cover frozen sections on 23 that day? 24 A No, she did not. Q Why not?</p>
<p style="text-align: center;">Page 115</p> <p>1 LEENA VARUGHESE 2 was an excused absence, but she did sign the 3 resident meeting minute acknowledgment sheet, 4 I'm sorry, I believe she did, I'm not 100 5 percent sure on that, but she did sign the 6 acknowledgment of Department policies 7 acknowledging she did receive them and she was 8 aware.</p> <p>9 Q Would you refer to Exhibit 10 number 17? Department Exhibit 17. 11 Would you browse through the 12 content of the exhibit and describe in your own 13 words briefly what they represent?</p> <p>14 A The first page is Dr. Varughese' 15 acknowledgment of the Department policies, 16 there are six policies listed that she 17 acknowledged the procedure if she had to make a 18 schedule change, absent a coverage policy, 19 which was the one I just referenced, which 20 dictates the order in which we pull residents 21 whenever they are absent, morning conference 22 attendance policy, corrective action policy, as 23 well as reviewing the resident meeting minutes 24 and acknowledging them and transitions of care 25 and the pages that follow are those policies.</p>	<p style="text-align: center;">Page 117</p> <p>1 LEENA VARUGHESE 2 A In subsequent e-mails she told 3 me that she had an injury to her arm and that 4 she would not be able to perform those duties 5 due to her jury. Q Did she ever provide proof of 7 had her alleged injury? 8 A No. Q Would you refer to Exhibit 6, 10 Department Exhibit 6, browse through them and 11 describe in your own words what they represent 12 or document? 13 A That's my communication with Dr. 14 Varughese on -- starting on the Thursday August 15 4th, the night before I needed her to cover 16 asking her to cover, her subsequent e-mails 17 back describing her injury and how it limited 18 her ability to cover frozen sections for that 19 Friday afternoon, and then her subsequent 20 suggestions to me that in the past we had 21 had -- the Chief Residents just asked residents 22 to cover and didn't dictate it. 23 I explained to her in another 24 portion of the e-mail that we were no longer 25 were asking residents to cover because</p>

<p style="text-align: right;">Page 118</p> <p>1 LEENA VARUGHESE 2 unfortunately the same residents would get 3 pulled over and over, only the residents who 4 would agree to cover. 5 The new policy made it easier 6 for the Chief Residents to find coverage so 7 that we didn't have to ask a whole bunch of 8 different people, it was already laid out who 9 would be pulled.</p> <p>10 Q Did you ever ask Dr. Varughese 11 to submit proof of her injury?</p> <p>12 A I did.</p> <p>13 Q Did she ever -- did you ever 14 find out why she was, in fact, injured or 15 submitted proof of that?</p> <p>16 A To the best of my knowledge she 17 never submitted proof and I am not aware what 18 the extent of her injury was.</p> <p>19 Q Did you need Dr. Varughese to 20 cover surgical pathology service on August 21 12th?</p> <p>22 A Yes.</p> <p>23 Q Why?</p> <p>24 A Again, I had a resident who 25 called out sick for that day and the service</p>	<p style="text-align: right;">Page 120</p> <p>1 LEENA VARUGHESE 2 to see if he could possibly get ahold of Dr. 3 Varughese since I was very concerned about the 4 service being covered and making sure that the 5 specimens were processed. 6 I asked him to step in and see 7 if he could contact her to find out if she 8 would cover the service.</p> <p>9 Q What did he do?</p> <p>10 A To the best of my knowledge, 11 what I was told is he paged her.</p> <p>12 Q Did she cover surgicals that 13 day?</p> <p>14 A Yes.</p> <p>15 Q Did she ever respond to your 16 e-mails?</p> <p>17 A No.</p> <p>18 Q Refer to Exhibit 7 and 8. 19 Browse through them and describe briefly what 20 they represent.</p> <p>21 DR. BRONHEIM: Before we leave 22 Exhibit 7, I see that there is a message 23 from Dr. Adrienne to Dr. Morency. 24 You covered about 15 differen -- 25 you cc'd about 15 different people.</p>
<p style="text-align: right;">Page 119</p> <p>1 LEENA VARUGHESE 2 required coverage.</p> <p>3 Q Why was Dr. Varughese 4 specifically assigned to cover surgical on that 5 day?</p> <p>6 A Since I did -- I assigned 7 another resident rather than her to cover 8 frozen sections, the next person up in rotation 9 would logically be her, since she was passed 10 over due to her injury, the next time somebody 11 needed coverage she was the first go to person.</p> <p>12 Q Did you attempt to contact Dr. 13 Varughese to tell her that she needed to cover 14 surgical?</p> <p>15 A I did, I contacted her via 16 e-mail.</p> <p>17 Q Did Dr. Varughese respond to 18 your e-mails or page?</p> <p>19 A No.</p> <p>20 Q What did you do?</p> <p>21 A I contacted Dr. Lento via phone, 22 I was doing all of this remotely I was on an 23 away elective at the time, so I was contacting 24 him.</p> <p>25 I contacted Dr. Lento via phone</p>	<p style="text-align: right;">Page 121</p> <p>1 LEENA VARUGHESE 2 Would you explain why you made such 3 an extensive list? I am on page -- sorry 4 Dr. Adrienne.</p> <p>5 DR. WEINFELD: Of that exhibit?</p> <p>6 DR. BRONHEIM: Yes.</p> <p>7 THE WITNESS: Yes, I can. 8 Dr. Morency was cc'd because she's my 9 co-Chief, Dr. Blau was the resident who 10 was sick, so she is on there so that she 11 knew who covered for her.</p> <p>12 A lot of times the residents like 13 to say thank you for covering when I was 14 out, so she was cc'd on that, Dr. Firpa 15 and Dr. Lento because they are the program 16 directors respectively, Dr. Blejwas 17 because he is the head of anatomic 18 pathology, and since I was also commenting 19 on the biopsies being covered that day he 20 needed to be aware of the situation.</p> <p>21 Dr. Grunis was Dr. Blau's surgical 22 partner, she needed to be aware of what 23 the coverage was because in the afternoon 24 whenever the -- I'm sorry, I'm going too 25 fast.</p>

<p style="text-align: center;">Page 122</p> <p>1 LEENA VARUGHESE 2 The biopsy frozen resident does 3 biopsies in the morning then -- they are 4 partnered, does frozen in the afternoon 5 then midday they switch, Dr. Grunis would 6 be signing over the rest of the biopsies 7 that hadn't gotten signed out to whoever 8 her partner was for that day. 9 Since Dr. Blau, her normal partner, 10 was out, I was asking Dr. Varughese to 11 step in, I wanted Dr. Grunis to be aware 12 of who she would be exchanging the 13 biopsies with. 14 So that's why she's on there.</p> <p>15 DR. BRONHEIM: So, would you say 16 that Dr. Varughese not agreeing or not 17 being available to cover created a great 18 deal of complicated rescheduling?</p> <p>19 THE WITNESS: It was complicated 20 to reschedule her, yes, but I did not 21 include these people on the subsequent 22 e-mails. 23 Once I sent out that general e-mail 24 these people were dropped to just a few</p>	<p style="text-align: center;">Page 124</p> <p>1 LEENA VARUGHESE 2 where I'm trying to follow up on the fact that 3 Dr. Varughese hasn't yet responded to my e-mail 4 for coverage. 5 Like I said, I was off-site 6 during this time, so I really needed to make 7 sure that patients weren't being put at risk by 8 their specimens not being processed. 9 So I was contacting the program 10 director to make sure that she was covering and 11 then one of the e-mails is Dr. Lento's response 12 back to me saying he instructed Dr. Varughese 13 to contact me to let me know she would cover, 14 and she never did.</p> <p>15 Q What is is Department number 8? 16 A Exhibit 8 is my e-mail to Dr. 17 Najfeld where I'm asking if Leena had come in, 18 Dr. Varughese had come in for the day because I 19 was getting concerned for the service and I 20 also knew that Dr. Najfeld had an appointment 21 later in the morning, and needed to meet with 22 her earlier in the day, so I was concerned for 23 everybody's time.</p> <p>24 Q Now, is there a policy regarding 25 attendance to core conferences in the</p>
<p style="text-align: center;">Page 123</p> <p>1 LEENA VARUGHESE 2 people who were intricately involved. 3 DR. BRONHEIM: Okay.</p> <p>4 Q Any comments on Exhibits 7 and 5 8.</p> <p>6 Q Now is there a -- 7 A Sorry, I am still reading 7 and 8 8.</p> <p>9 Q What is Department Exhibit 7 10 first?</p> <p>11 A Exhibit 7 is my e-mail to Dr. 12 Varughese and several other people asking her 13 to cover for an absent resident on surgical 14 service that day.</p> <p>15 The other people included on the 16 e-mail are other people that asked to step in 17 and help in the gross room, so that way Dr. 18 Varughese wouldn't be overwhelmed with the 19 grossing responsibilities for that day and she 20 could at least somewhat participate in her 21 normally scheduled rotation.</p> <p>22 Q And would you turn over to 23 Department Exhibit 8?</p> <p>24 A The rest of Exhibit 7 is my 25 communications with Dr. Najfeld and Dr. Lento</p>	<p style="text-align: center;">Page 125</p> <p>1 LEENA VARUGHESE 2 Department as part of the program? 3 A There is. 4 Q Would you explain it, please? 5 A May I refer to the exhibit real 6 quick? 7 Q Sure. 8 A That was Exhibit Department 6, 9 right? 10 MR. McEVOY: The policy? 11 THE WITNESS: Yes. 12 MR. McEVOY: 17. 13 A Department Exhibit 17, so the 14 policy for morning conference attendance to 15 ensure that the residents receive a complete 16 academic curriculum during their program time 17 here, they are required to attend conference 18 per ACGME guidelines. 19 There is a sign-up sheet out in 20 the morning whenever there is conference at 21 8:00 a.m. and if they fail to -- while nobody 22 is perfect, we allow an 80 percent conference 23 rate, basically allowing the residents to miss 24 one conference a week to allow for things like 25 sleeping in, traffic, doctors appointments and</p>

<p style="text-align: right;">Page 126</p> <p>1 LEENA VARUGHESE 2 so on. 3 If they fail to meet that 80 4 percent level there are penalties, if they fall 5 between the 60 and 80 percent averaged over the 6 four week block, then they have to prepare one 7 lecture.</p> <p>8 DR. WEINFELD: We can read this, 9 let's keep going. It's not your fault 10 let's move along.</p> <p>11 This is going to take forever, 12 let's move it.</p> <p>13 Q Did Dr. Varughese ever fail to 14 meet the 80 percent required?</p> <p>15 A Yes.</p> <p>16 Q What happened?</p> <p>17 A My co-Chief, Dr. Morency, 18 e-mailed her and explained to her, she had 19 fallen below the 80 percent conference 20 attendance for period 2 and that she would be 21 required to give a make-up lecture at a later 22 date, and I believe that e-mail also stated 23 which date Dr. Varughese was assigned.</p> <p>24 Q Did she ever respond to 25 Dr. Morency's e-mails?</p>	<p style="text-align: right;">Page 128</p> <p>1 LEENA VARUGHESE 2 Q And what happened then? 3 A She came into morning 4 conference, as there was another resident 5 presenting that morning, she came in for 6 lecture at 8:00 a.m. 7 Lecture starts at 8:00 a.m., she 8 came in at 8:15 and sat down and when the first 9 resident completed their presentation at 8:30, 10 we were waiting for her to transition up to the 11 podium to give her presentation and she walked 12 out.</p> <p>13 Q Is there a policy in place 14 requiring proof of illness for failing to 15 fulfill tasks required as part of the job?</p> <p>16 A Yes. Anything that requires a 17 violation in Department policy, for example, 18 not covering the service whenever it's your 19 turn in the rotation does require 20 documentation.</p> <p>21 Q Did she provide any proof of 22 illness on those days she failed to present?</p> <p>23 A No.</p> <p>24 Q Would you refer to Exhibits 9 25 and 10, Department Exhibits 9 and 10. First</p>
<p style="text-align: right;">Page 127</p> <p>1 LEENA VARUGHESE 2 A Not at that time, later, about a 3 month later she did. 4 Whenever I followed up in 5 another e-mail asking what her topic was.</p> <p>6 Q Did Dr. Varughese fail to 7 respond to subsequent follow-up e-mails from 8 Dr. Morency and you?</p> <p>9 A I'm not sure what the time line 10 of her response was, she eventually did respond 11 with topics that she wished to present and as 12 Chief Residents Elizabeth and I discussed her 13 topics and we felt that they weren't to the 14 level of a PGY 4 resident, so we did not 15 approve the topics and made some alternate 16 suggestions for things that she could present.</p> <p>17 Q Do you recall ever her calling 18 in sick after being scheduled to present on 19 September 13 or 14?</p> <p>20 A Yes, September 13th was the 21 first date she was assigned to give her penalty 22 conference, she did call out sick that day.</p> <p>23 Q What happened then?</p> <p>24 A I rescheduled her for September 25 14th.</p>	<p style="text-align: right;">Page 129</p> <p>1 LEENA VARUGHESE 2 Department Exhibit 9, briefly describe what 3 they represent?</p> <p>4 A It's a series of e-mails, my 5 first e-mail being that is Dr. Varughese had to 6 acknowledge the resident meeting minutes for 7 the resident meeting that took place on August 8 26th, I send out the minutes within two weeks 9 after the meeting, then the residents have two 10 weeks to sign the acknowledgment sheet that 11 they approved the minutes meeting and they are 12 aware of that content.</p> <p>13 We discuss serious material at 14 these meetings that we need the residents to be 15 aware of, so they must acknowledge it.</p> <p>16 Then it's an e-mail from you 17 asking her to comply with the Chief Residents 18 according to ACGME guidelines and our 19 Department policies.</p> <p>20 And then it's another e-mail 21 from me to Dr. Varughese asking her, thanking 22 her for her acknowledgment of the meeting 23 minutes, but also asking her for her topic of 24 the penalty conference which she was scheduled 25 for at that time to be on September 13th, which</p>

<p style="text-align: right;">Page 130</p> <p>1 LEENA VARUGHESE 2 was the day she called out sick. 3 Q Go to Department Exhibit 10. 4 A The first e-mail is the one that 5 was sent at the end of August from Dr. Morency 6 informing Dr. Varughese that she fell below the 7 80 percent level of conference attendance for 8 period 2, and will be required to give a 9 make-up conference on September 14th, but I 10 believe that was a mistake in the dating, I 11 believe Dr. Morency actually meant Wednesday 12 September 13th, but I would have to look at the 13 calendar, I'm sorry. 14 The next e-mail is from Dr. 15 Varughese on September 13th stating that she 16 was not required to be at all the conferences 17 because she spoke with Dr. Firpa and she was 18 attending other conferences which were of 19 educational value to her, and that she was 20 requesting a hospital-wide conference list for 21 all the available daily conferences in that she 22 would present the next day a hodgepodge of all 23 the cytology lectures that she missed. 24 Then Dr. Firpa responded that 25 she can attend as many other conferences as she</p>	<p style="text-align: right;">Page 132</p> <p>1 LEENA VARUGHESE 2 Then the last part of that 3 exhibit is my response back to her apologizing 4 that I thought she was calling out sick for the 5 next day and I would correct that, that all the 6 residents who needed me while I was on my away 7 elective were able to get in touch with me and 8 that I could provide her with documentation of 9 that. 10 DR. WEINFELD: Why don't we ask a 11 question, this is reading through the 12 exhibits we all have. 13 Q Did Dr. Varughese ever challenge your authority as Chief Resident? 14 A Yes. 15 Q How? 16 A Well, in that particular e-mail 17 she states that I was essentially not the Chief 18 Resident during period 2, when, in fact, I was, 19 I was just an off-site Chief Resident. 20 Q Was this the only instance in which she challenged your authority as Chief Resident? 21 A No.</p>
<p style="text-align: right;">Page 131</p> <p>1 LEENA VARUGHESE 2 wants, but the 8:00 a.m. conferences are still 3 mandatory for all residents. 4 Then Dr. Varughese called out 5 sick for the following day that she was 6 supposed to present and that she's not 7 qualified to give any real core lecture because 8 she's only a resident. 9 And then -- I'm sorry, she's not 10 calling out sick at this point, I interpreted 11 her e-mail as calling out sick, she said she 12 wasn't feeling well and wouldn't be able to 13 present. 14 I then sent an e-mail to 15 everyone saying she was calling out sick, I 16 presumed when she said I don't feel well that's 17 what it meant, and she sends me a response back 18 basically stating that I wasn't available for 19 the residents in period 2, so I don't know who 20 was keeping track of attendance. 21 That I am making a hostile work 22 environment, that I am dictating who she can 23 and cannot talk to and that I should only -- I 24 should communicate with her through Dr. Firpa 25 in the future.</p>	<p style="text-align: right;">Page 133</p> <p>1 LEENA VARUGHESE 2 Q What did you do in each of those instances? 3 A I responded to her in my 4 capacity as Chief Resident and I made sure that 5 both Drs. Firpa and Dr. Lento and my co-Chief 6 Dr. Morency were aware of the issues. 7 DR. FIRPA: I have no further 8 questions. 9 DR. WEINFELD: Dr. Varughese. 10 CROSS-EXAMINATION BY DR. VARUGHESE: 11 12 Q So, you were, in fact, not here for the period 2? 13 A I was not on-site, correct. 14 Q So where were you? Were you on an away elective? 15 DR. WEINFELD: She said she was 16 away on an elective, so let's move on. 17 Q Was your pager working the entire time you were not here? 18 A No, there were two weeks where 19 my short range pager -- I found out on my first 20 day of my rotation did not work, I sent out an 21 22 23 24 25</p>

<p style="text-align: right;">Page 134</p> <p>1 LEENA VARUGHESE 2 e-mail to all of the residents and the faculty 3 stating what my cell phone number was and where 4 they could reach me, and I made the Department 5 aware of it, and they sent me an overnight -- a 6 national-wide pager, but it took about a week 7 and a half to get to me, but through that time 8 I did send constant e-mails telling everybody 9 what my cell phone number was and that they 10 could reach me by phone. 11 Which several residents did do. Q So when was the policy acknowledgment due, what date was it due? 12 A I don't recall. Q When were we supposed to have read everything, understood and submitted the policy acknowledgment? 13 A I don't recall. Q Well, okay, let's refer to Exhibit 17 by the Department. 14 DR. WEINFELD: Tell us what policy you want us to refer to, please. 15 DR. VARUGHESE: So Exhibit 17 16 Page 1, it shows the acknowledgment of 17 Department policies and I have signed it</p>	<p style="text-align: right;">Page 136</p> <p>1 LEENA VARUGHESE 2 So as of July 1, one of the first 3 tasks were to formalize all this general 4 ideas into written documents. 5 It was scheduled then at a 6 residents and fellows meeting to present 7 them with the final draft as they were 8 consensuated among the established 9 policies in other comparable programs with 10 the United States. 11 DR. WEINFELD: New policies in 12 the Department, is that it? 13 DR. FIRPA: Many of them were 14 already in place, but this is the first 15 formal acknowledgment and incorporated 16 into the program description. 17 A meeting was held, the residents 18 voted, she was absent because she was on 19 vacation, but upon her return, the package 20 was in her mailbox and she was informed as 21 everybody was who was absent that this was 22 the consensus, and that they had to read 23 them and acknowledge receipt by signature. 24 The deadline for submitting the 25 signature was 8/15 and she waited until</p>
<p style="text-align: right;">Page 135</p> <p>1 LEENA VARUGHESE 2 and dated it as of 8/15/2011 that's when 3 it was due. 4 So, yes, when Dr. Jordan first 5 e-mailed me about covering I had, of 6 course, just been on vacation, came back, 7 I had responsibilities on other rotations, 8 I am managing all those. 9 No, I did not get to read through 10 approximately how many pages, 7 new pages 11 of Department policy at that point. 12 DR. WEINFELD: Can I ask a 13 question, what's the policy on 14 acknowledgment of Department policy? 15 Is this something that residents 16 sign when they first -- when they are PGY 17 2, 1, this was signed three months ago, so 18 why was this signed three months ago and 19 not at the beginning of the residency? 20 DR. LEITER: It's new policy. 21 DR. WEINFELD: I'm not asking 22 you, I'm asking the Department. 23 DR. FIRPA: There were policies 24 but they were not formalized policies in 25 place at the Department.</p>	<p style="text-align: right;">Page 137</p> <p>1 LEENA VARUGHESE 2 the very last day to do that. 3 DR. WEINFELD: Okay. 4 DR. BRONHEIM: Dr. Varughese, you 5 are a PGY 4 resident, you have had Chief 6 Residents for many years, are you saying 7 that a Chief Resident tells you that you 8 have to be on call, that it's up to you 9 to decide whether or not it's 10 appropriate? 11 DR. VARUGHESE: No, she had 12 e-mailed me the day before and she said 13 that, you know, one of the residents was 14 calling out sick and I needed to cover 15 for this resident for that morning. 16 I e-mailed her saying that I 17 couldn't because of my arm injury, and 18 because I knew I wouldn't be able to 19 because of my arm injuy I just wanted to 20 give her advance notice. 21 I didn't explain myself, I just 22 told her that I couldn't cover. 23 DR. WEINFELD: When they asked 24 you for, well this is relevant to this, 25 when they asked for documentation of</p>

Page 138	Page 140
1 LEENA VARUGHESE 2 that, how come you didn't provide that? 3 DR. VARUGHESE: Well, because I 4 was actually at work on Friday, I had 5 the arm injury for several days, it 6 wasn't something that I just had, and it 7 was not something that I went to see a 8 doctor for. 9 It was, you know, so I don't have a 10 doctor's note for that, I actually came 11 into work despite all that. 12 DR. WEINFELD: The question was 13 why didn't you provide documentation 14 knowing that that was what was required? 15 DR. VARUGHESE: Well, I didn't 16 know I was required, actually, to 17 provide documentation. 18 THE WITNESS: May I say 19 something? 20 DR. WEINFELD: Sure. 21 THE WITNESS: Actually I realize 22 that we are physicians and we don't 23 always seek a doctor's appointment 24 whenever we hurt ourselves, so actually 25 whenever I e-mailed Dr. Varughese to ask	1 LEENA VARUGHESE 2 DR. BRONHEIM: From the 3 Department? 4 DR. VARUGHESE: From the 5 Department. 6 DR. WEINFELD: What's your 7 question? 8 DR. VARUGHESE: Department 9 Exhibit 8 -- not Exhibit 8. 10 Anyway, I do explain my injury to 11 some extent in an e-mail to Dr. Jordan on 12 August 5th when she asked me to cover. 13 So, in fact, I did explain to her 14 already, I mean beyond that, I -- 15 DR. WEINFELD: Tell us the e-mail 16 you are referring to that you explain 17 that. 18 DR. ROCCO: Exhibit 6. 19 DR. MARIN: Department Exhibit 6. 20 DR. ROCCO: I think that's what 21 she's trying to find. 22 DR. WEINFELD: Looks like second 23 page of Exhibit 6, middle of the page, 24 Department Exhibit 6.. 25 DR. VARUGHESE: So, here I just
Page 139	Page 141
1 LEENA VARUGHESE 2 her for proof of her illness one of my 3 options I even gave her was to just 4 write a letter herself stating what her 5 injuries were and to turn that in and I 6 would accept that as proof. 7 I trust her as a -- 8 DR. VARUGHESE: Well, okay. 9 DR. WEINFELD: Were you finished? 10 Do you want to finish your thought? 11 THE WITNESS: I was just going to 12 say I was going to accept that as 13 documentation of her injury, but to the 14 best of my knowledge she didn't turn 15 that in either. 16 So I wasn't requiring specifically 17 a physician's note. 18 DR. VARUGHESE: I mean I want to 19 refer to the exhibit that relays all 20 these e-mails from I'm not sure which 21 one that was, was it 7 or 9? 22 DR. WEINFELD: Which e-mail are 23 you referring to? 24 DR. VARUGHESE: I think it was 25 Exhibit 7.	1 LEENA VARUGHESE 2 say that I don't have -- if I didn't 3 have a wrist, hand injury I would be 4 happy to oblige. 5 DR. MARIN: That doesn't 6 constitute an explanation. 7 What she's talking about is just 8 explaining what happened to your hand why 9 you were injured and what the nature of 10 the problem is. 11 DR. ROCCO: Can you explain why a 12 wrist and hand injury would prohibit you 13 from taking part in this rotation or the 14 coverage for the day in frozen? 15 DR. VARUGHESE: So frozen section 16 basically involves me cutting, making 17 slides to be read, so if -- and handling 18 specimens, I have to cut the specimens, 19 then processing specimens, and then 20 label and everything, so that requires 21 some dexterity, so I just didn't feel 22 that, you know, I could do that. 23 DR. MARIN: Can you explain to us 24 what you -- it sounds like you were able 25 to go into work that day, what you were

<p style="text-align: right;">Page 142</p> <p>1 LEENA VARUGHESE 2 able to do, what rotation you felt like 3 you were physically able to do. 4 DR. VARUGHESE: In genetics it's 5 not a manually, it doesn't require 6 manual labor, so I did go to that 7 rotation.</p> <p>8 DR. WEINFELD: Okay, let's move 9 on.</p> <p>10 Any other questions for Dr. Jordan?</p> <p>11 Q So you said that I have not responded to the e-mails from the Chief Residents in the past.</p> <p>12 A Yes.</p> <p>13 Q But, in fact, I have and I requested a meeting, I was at the VA for several weeks, the first two weeks I was in cytogenetics and the second two weeks of period two I was at the VA, so there was a request for a meeting and I suggested perhaps everyone can come there because, you know, and have this meeting and have Dr. Jordan on the phone, but that was -- I never got a response to that.</p> <p>14 DR. WEINFELD: So what you are saying, how many residents were at the</p>	<p style="text-align: right;">Page 144</p> <p>1 LEENA VARUGHESE 2 was not communication with me. 3 Q One more thing, why did you state that I was not presenting? 4 I mean why did you state that I would not come into work?</p> <p>5 A I'm sorry.</p> <p>6 DR. WEINFELD: What date are you talking about?</p> <p>7 DR. VARUGHESE: On Wednesday, 8 that would be the 13th.</p> <p>9 DR. WEINFELD: September 13th?</p> <p>10 DR. VARUGHESE: Yes.</p> <p>11 A Because your e-mail to me stated 12 that you weren't feeling well and couldn't present the next day, and I assumed that meant 13 that you were calling out sick, which you, in fact, did do.</p> <p>14 Q Yes, because -- because of the hostility that I am receiving every time there is any issue that comes up.</p> <p>15 What happens is Dr. Jordan sends 16 me these -- this particular e-mail where she is 17 asking telling me that I'm not going to be 18 coming into work, she addresses Dr. Carter, she</p>
<p style="text-align: right;">Page 143</p> <p>1 LEENA VARUGHESE 2 VA, you? 3 DR. VARUGHESE: It was me, yes. 4 DR. WEINFELD: How many residents 5 were here? 6 DR. VARUGHESE: There were -- 7 DR. WEINFELD: 20? 8 DR. VARUGHESE: I'm not sure. 9 DR. WEINFELD: So 20 residents 10 should go to accommodate one resident. 11 That doesn't make sense. 12 DR. VARUGHESE: Not 20 residents, 13 the Chief Resident, because they 14 wanted -- 15 DR. WEINFELD: Ask your question, 16 I'm sorry. 17 DR. VARUGHESE: So I never got a 18 response to that. 19 A I believe that you did, 20 actually, but Dr. Morency would have to speak 21 to that because she was the one who was 22 contacting you. 23 But to the best of my knowledge 24 from what I remember on my e-mails she did 25 respond to you and after that, but again, that</p>	<p style="text-align: right;">Page 145</p> <p>1 LEENA VARUGHESE 2 calls out sick for me on my behalf, how rude 3 and obnoxious is that? 4 DR. WEINFELD: Let's ask a 5 question. 6 Q Do you think you're warranted to call out for me? 7 A Like I said -- 8 Q To make a statement for me on my behalf, as the Chief Resident? 9 A Like I said, I interpreted your 10 e-mail that you were calling out sick. 11 I did speak with somebody else 12 who was cc'd on that e-mail who also 13 interpreted that you were calling out sick, but 14 once you said that you didn't, my point one in 15 my ten point e-mail back to you was I 16 apologize for assuming you were calling out 17 sick. 18 That's the first thing I put in 19 that lengthy e-mail, so if that was my mistake, 20 I apologize, I assumed that's what you were 21 doing. 22 Q I feel like there have been a 23 lot of assumptions that you make for other</p>

<p style="text-align: right;">Page 146</p> <p>1 LEENA VARUGHESE 2 people when, in fact, it goes beyond your Chief 3 Resident responsibility.</p> <p>4 A If you can provide me with 5 evidence of that, I would respond.</p> <p>6 DR. MARIN: Dr. Varughese, can I 7 ask you a question, if you did want to 8 call out sick, what would you do?</p> <p>9 DR. VARUGHESE: I would send an 10 e-mail out to the Chief Residents.</p> <p>11 DR. LEITER: So why didn't you 12 present? I'm unclear.</p> <p>13 DR. VARUGHESE: I didn't present 14 because I wanted to do a presentation on 15 gross pathology and some other -- and 16 sections to submit and I think it's 17 really relevant and I thought I would do 18 that presentation and that would be 19 adequate.</p> <p>20 DR. WEINFELD: On your September 21 13th e-mail this is?</p> <p>22 DR. VARUGHESE: They wanted me to 23 do a different presentation.</p> <p>24 DR. WEINFELD: This says I don't 25 feel well, I won't be able to present</p>	<p style="text-align: right;">Page 148</p> <p>1 LEENA VARUGHESE 2 and capricious what they say to me on 3 any given day.</p> <p>4 I do not know where I stand or what 5 I'm supposed to do and to what degree I 6 can do my job without having to deal with 7 this kind of issue on any given basis or 8 any given day.</p> <p>9 DR. WEINFELD: Okay, let's go for 10 another question, any other questions 11 you have for Dr. Jordan?</p> <p>12 Q Yes, I do.</p> <p>13 So, I would like you to look at 14 Exhibit 34, my Exhibit 35.</p> <p>15 DR. WEINFELD: Of your exhibits?</p> <p>16 DR. VARUGHESE: Of my exhibits.</p> <p>17 DR. WEINFELD: What's your 18 question? We are there.</p> <p>19 Q So, it says I have missed 20 certain presentations here and I would like you 21 to refer to Exhibit 44.</p> <p>22 DR. WEINFELD: Wait, we are on 23 35?</p> <p>24 DR. VARUGHESE: On Page 2?</p> <p>25 THE WITNESS: Sorry, which</p>
<p style="text-align: right;">Page 147</p> <p>1 LEENA VARUGHESE 2 tomorrow.</p> <p>3 What expectation would we have 4 other than you wouldn't be at work because 5 if you going to work but you wouldn't be 6 well enough to present, I don't really 7 understand that.</p> <p>8 DR. VARUGHESE: Well, actually I 9 wasn't feeling well that day and I 10 wanted to make a presentation that was 11 about gross pathology and submitting the 12 appropriate sections.</p> <p>13 When that wasn't to be, I had to 14 make a new presentation which I couldn't 15 do and the topics they actually gave me 16 which is not -- I don't know if it's 17 listed in any of these exhibits, in fact 18 they are in excess of what was presented 19 and discussed that particular period.</p> <p>20 DR. WEINFELD: What other 21 conclusion would a person come to by you 22 saying I don't feel well, I won't be 23 able to present the lecture I'm supposed 24 to present?</p> <p>25 DR. VARUGHESE: A it's arbitrary</p>	<p style="text-align: right;">Page 149</p> <p>1 LEENA VARUGHESE 2 exhibit are we on?</p> <p>3 DR. WEINFELD: The big book, 35 4 Page 2.</p> <p>5 Q Page 1 is basically me 6 responding to an e-mail from Dr. Jordan about 7 what the topic is going to be for the 8 presentation, because she was interested in 9 knowing, so I sent her e-mails just saying that 10 it's going to be what it's going to be.</p> <p>11 Then on -- then following that 12 she said that's not an appropriate lecture 13 topic?</p> <p>14 DR. WEINFELD: Right.</p> <p>15 DR. VARUGHESE: And she lists 16 several appropriate lecture topics that 17 I can present from.</p> <p>18 These include cytology.</p> <p>19 DR. LEITER: We can read it, 20 what's the question?</p> <p>21 Q So basically if you were to 22 refer to Exhibit 44 for a period and this is 23 all the different conferences that were 24 supposedly presented in period 2, you will note 25 that there is actually a -- she has placed a</p>

<p style="text-align: right;">Page 150</p> <p>1 LEENA VARUGHESE 2 lecture? 3 DR. BRONHEIM: What page? 4 DR. VARUGHESE: So there were 5 four cytology lectures that were given 6 that month, so one of the cytology 7 lectures, these are all Wednesday 8 mornings, so one of them included GYN, 9 reactive changes/infections. 10 DR. WEINFELD: So what are you 11 saying, it's not clear? 12 DR. VARUGHESE: Basically what 13 I'm saying is that she has arbitrarily 14 placed a lecture that wasn't presented 15 that month as something that I should 16 present for a follow-up -- for a 17 conference that I need to make up 18 because I didn't attend the required 19 conference. 20 DR. MARIN: So I don't see what 21 was arbitrary. 22 I can understand you may not have 23 wanted to do the topic there and that's up 24 for discussion, but you haven't given us 25 any information that says it's an</p>	<p style="text-align: right;">Page 152</p> <p>1 LEENA VARUGHESE 2 saying I'm sorry that you have to create 3 another presentation, but this is why 4 Dr. Morency and I asked you several 5 weeks ago for your topic. 6 Why didn't you provide your topic 7 at least a week in advance? 8 That's in your 35, Page 2. 9 DR. VARUGHESE: Yes, I understand 10 what you are saying, so here is the -- 11 so for period 2 there were two Chief 12 Residents we have on, so one Chief 13 resident wasn't there for two weeks the 14 first two weeks. 15 That's when I was on cytogenetics, 16 then for the following two weeks that 17 other Chief Resident was on-site and this 18 Chief Resident was away for the entire 19 month. 20 I did attend a lot of these 21 conferences. 22 DR. WEINFELD: You attended 23 conferences that you were marked absent 24 for, is that what you are saying? 25 DR. VARUGHESE: I have a</p>
<p style="text-align: right;">Page 151</p> <p>1 LEENA VARUGHESE 2 arbitrary decision to ask you to present 3 on one topic versus the other, that seems 4 to be within the domain of a Chief 5 Resident. 6 7 DR. VARUGHESE: So the normal -- 8 she basically said normal -- okay, so I 9 understand, but this is according to the 10 departmental policy, it is stated that 11 when we do have to make up a conference 12 for missing these conferences that are 13 mandatory, you basically had to present 14 from one of those that you missed, not 15 necessarily something they decide on, 16 that's departmental policy, so I think 17 there is a lot of confusion regarding 18 this new policies that have been 19 instituted. 20 DR. LEITER: Why didn't you just 21 choose a topic and e-mail? 22 DR. VARUGHESE: I did choose a 23 topic and present, but they said it 24 wasn't appropriate. 25 DR. BRONHEIM: They are also</p>	<p style="text-align: right;">Page 153</p> <p>1 LEENA VARUGHESE 2 suspicion that may be true, because I 3 actually was -- I did go to these 4 conferences and I also had a discussion 5 with Dr. Firpa regarding me attending 6 conferences that are educational to me 7 when I was at a different institution, 8 and he said it was okay, I had to make a 9 note of that, I am actually going to 10 these conferences and that would be 11 adequate or appropriate. 12 DR. WEINFELD: Okay, so let's ask 13 a question then. 14 DR. MARIN: Are there any other 15 questions for this witness? 16 THE WITNESS: I'm sorry I am 17 bouncing around. 18 DR. MARIN: This is for you, is 19 there anything else you would like to 20 ask her? 21 DR. VARUGHESE: I want to make 22 myself clear. 23 DR. MARIN: It's questions for 24 the witness. 25 DR. VARUGHESE: No.</p>

<p style="text-align: right;">Page 154</p> <p>1 LEENA VARUGHESE 2 I just want to make the last 3 statement clear, I did attend a lot of the 4 conferences I'm not sure if the attendance 5 list was done appropriately.</p> <p>6 DR. LEITER: Isn't there 7 documentation?</p> <p>8 THE WITNESS: Yes, there is, the 9 attendance sheet was every day that 10 there was no chief on-site and we know 11 this because everybody else signed in.</p> <p>12 It's common knowledge in our 13 Department and our residency program that 14 there is a sign in sheet out there every 15 morning you have to sign in to get credit 16 for the conference.</p> <p>17 DR. WEINFELD: Is there a reason 18 why you wouldn't sign a sheet?</p> <p>19 DR. VARUGHESE: If I didn't see 20 the sign in sheet immediately.</p> <p>21 DR. LEITER: You knew there were 22 penalties if you didn't sign in.</p> <p>23 DR. VARUGHESE: The policy only 24 went into effect as the 15th.</p> <p>25 DR. WEINFELD: Everyone signed</p>	<p style="text-align: right;">Page 156</p> <p>1 LEENA VARUGHESE 2 employer? 3 A Mount Sinai Medical Center. 4 Q What is your title? 5 A Fourth year resident, Chief 6 Resident. 7 Q What are your job duties? 8 A As a resident or as a Chief 9 Resident. 10 Q As a Chief Resident. 11 A As a Chief Resident to organize 12 the schedules, to help orient new and incoming 13 residents, to serve as a liaison between 14 administration faculty and staff and residents, 15 that's basically it. 16 Q Was there ever a time when Dr. 17 Varughese failed to meet the 80 percent 18 requirements of attendance to core conferences? 19 A Yes. 20 Q Do you recall what that was? 21 A Period 2. 22 Q Do you remember what happened? 23 A Yes, I sent an e-mail out Monday 24 August 29 informing her of that fact we 25 scheduled her for a date to give a make up</p>
<p style="text-align: right;">Page 155</p> <p>1 LEENA VARUGHESE 2 the sign in sheet but you didn't? 3 DR. VARUGHESE: Two weeks, August 4 29th, on the first day of period 3 they 5 want to tell me that I have to present. 6 DR. WEINFELD: Any other 7 questions for this witness? 8 DR. VARUGHESE: It seems -- 9 DR. WEINFELD: The witness is 10 excused, thank you. 11 MR. MacDONALD: Can we go off the 12 record. 13 (Discussion off the record.) 14 15 E L I Z A B E T H M O R E N C Y , called 16 as a witness, having been first duly sworn 17 by the Notary Public, was examined and 18 testified as follows: 19 20 DR. WEINFELD: Can we go back on 21 the record. 22 23 DIRECT EXAMINATION BY DR. FIRPA: 24 25 Q Dr. Morency, who is your</p>	<p style="text-align: right;">Page 157</p> <p>1 LEENA VARUGHESE 2 presentation per our conference attendance 3 policy, and she initially failed to respond, 4 she subsequently did acknowledge the fact that 5 she was scheduled to present on that date, and 6 then called out sick, so then we reschedule her 7 for the next day. 8 So the initial date was the 14th 9 she called out sick, so we scheduled her for 10 the 15th, she called out sick again. 11 So then, she did show up that 12 Thursday, whatever that Thursday was, came in 13 but then left without making a presentation so 14 she never ended up making a question. 15 DR. MARIN: Is this common to 16 call out sick that frequently in 17 pathology residency, is this different, 18 is that an acceptable event? 19 THE WITNESS: Given the 20 circumstances she was supposed to make a 21 presentation, I just think its kind of 22 strange. 23 DR. MARIN: People call out sick 24 frequently as residents? 25 THE WITNESS: Sure, not -- it</p>

<p style="text-align: right;">Page 158</p> <p>1 LEENA VARUGHESE 2 depends, if you are sick you call out, 3 it's variable. 4 DR. MARIN: Thank you. 5 Q Did she ever provide, did you 6 ever ask her for proof of illness since her 7 absences precluded her from fulfilling a task? 8 A No, because the policy is you 9 have to miss three consecutive days and she 10 only missed two, so I didn't ask her. 11 Q Would you look at Exhibit 10 in 12 that book, Department's Exhibit 10, and briefly 13 describe what they represent? 14 A So this is just a series of 15 e-mails back and forth initially starting 16 explaining when she needs to come in and give 17 her make up presentation, then she responded 18 that she was going to be out sick, so then we 19 wanted to reschedule her, but then she started 20 to question as to why she had to give the 21 presentation? 22 Were there other residents 23 required to give presentations? 24 Why on that particular Wednesday 25 she was scheduled, because we normally have our</p>	<p style="text-align: right;">Page 160</p> <p>1 LEENA VARUGHESE 2 fellow was on the list, right, as scheduled to 3 present on Thursday? 4 DR. WEINFELD: Were you supposed 5 to present that day, Dr. Varughese? 6 DR. VARUGHESE: No, not on 7 Thursday. I was supposed to present on 8 Wednesday. 9 DR. WEINFELD: The day you walked 10 out and left, can you explain that? 11 DR. VARUGHESE: Do you -- I was 12 asking a question, can we -- 13 DR. WEINFELD: I know, but I am 14 trying to get to the root of the 15 question here. 16 You can ask your question in a 17 second, but do you have an explanation for 18 leaving a conference that you were 19 supposed to present at without 20 explanation? 21 DR. VARUGHESE: Well, I never 22 agreed to present on Thursday, September 23 14th. 24 DR. WEINFELD: So you are saying 25 you weren't supposed to present that</p>
<p style="text-align: right;">Page 159</p> <p>1 LEENA VARUGHESE 2 weekly cytology lectures, so it was just kind 3 of a back and forth, back and forth trying to 4 establish a date when she was going to come. 5 DR. WEINFELD: Can I interrupt a 6 second, is there some new information we 7 are going to get from this witness? 8 DR. FIRPA: This is it, this is 9 the end for our questioning. 10 DR. WEINFELD: Great. 11 DR. VARUGHESE: I have a few 12 questions. 13 14 CROSS-EXAMINATION BY DR. VARUGHESE: 15 16 Q There was a fellow scheduled to 17 present on Thursday? 18 A Yeah, for a 30 minute period so 19 there are two 30 minute spots on Thursday 20 available. 21 Q Who were the two fellows 22 supposed to present on Thursday? 23 A It was just one, Dr. Klapper. 24 Q Well, as of that week when we 25 were sent out the weekly conference list, the</p>	<p style="text-align: right;">Page 161</p> <p>1 LEENA VARUGHESE 2 day? 3 DR. VARUGHESE: I never agreed to 4 it. 5 DR. WEINFELD: I don't know what 6 that means. 7 DR. LEITER: Were you prepared to 8 present? 9 DR. VARUGHESE: No, I was sent an 10 e-mail very late on September 13th, was 11 it, saying I have to present because 12 somebody canceled. 13 THE WITNESS: No, that's not how 14 it worked. 15 DR. MARIN: Were you prepared to 16 present on the 13th, the day you were 17 originally scheduled? 18 DR. VARUGHESE: I was able to 19 present what I was prepared to present 20 on the 13th, but not the lecture topics 21 that was mentioned in Dr. Jordan's 22 e-mail that we had heard before. 23 They didn't want me to present that 24 and I wasn't about to make up a new 25 presentation as I was taking a sick day</p>

<p style="text-align: right;">Page 162</p> <p>1 LEENA VARUGHESE 2 and I wasn't going to work. 3 If I were at work I would have 4 worked on both Tuesday and Wednesday. 5 DR. WEINFELD: Ask your question, 6 I'm sorry. 7 Q So Thursday there were two 8 fellows who were -- 9 A One fellow. 10 Q One fellow, but as of the week, 11 beginning of the week the two fellows were both 12 on the list as being able to present that week? 13 A One fellow, Dr. Klapper only. 14 Q Well, there was a different 15 fellow when you sent out the conference list. 16 DR. MARIN: She already told you 17 there was one fellow scheduled. 18 She answered your question, you 19 can't keep asking her the same question. 20 DR. VARUGHESE: Here is the 21 thing, I want you to look at Exhibit -- 22 so I want you to look at Exhibit -- 23 that's Exhibit 45 in my exhibits. 24 DR. WEINFELD: This is Dr. 25 Varughese' Exhibit 45.</p>	<p style="text-align: right;">Page 164</p> <p>1 LEENA VARUGHESE 2 like to add it at a later date. 3 DR. WEINFELD: So 47 exhibits, we 4 don't have that. 5 DR. VARUGHESE: Here is a list 6 that says who is supposed to present as 7 of Wednesday, one person is not 8 presenting and up until then there were 9 two people presenting that date the 10 person canceled last minute and I 11 believe that was Dr. Guarino who 12 canceled the presentation that he was 13 supposed to make at the last minute. 14 And I was told I can present 15 because he canceled and this is on 16 Wednesday. 17 And that's my sick day. 18 Q So, anyway my other question for 19 you is that you were on vacation for the first 20 two weeks, right? 21 A Of when? 22 Q Of period 2. 23 A Yes. 24 Q So, basically you were on 25 vacation and Dr. Jordan was not here for period</p>
<p style="text-align: right;">Page 163</p> <p>1 LEENA VARUGHESE 2 Q So here is a list of presenters 3 for the year that's listed here from the 4 Department of Pathology. 5 So if you look at the date that 6 I was supposed to present which was 9 -- well 7 newly assigned to present I believe it is 8 9/15/11, this is Akozi and Klapper. 9 A Yes. 10 Q So when did they cancel, when 11 did doctor? 12 A Dr. Akozi I honestly don't know 13 but we knew as of Wednesday when we sent you 14 the e-mail you were to present Thursday it was 15 only going to be one fellow presenting that 16 day. 17 Q Okay, well actually I had also 18 gotten an e-mail that earlier that week saying 19 the people presenting on Thursday was 20 Dr. Guarino, I believe and Dr. Klapper was it? 21 A I don't remember the exact. 22 DR. WEINFELD: Do you have a copy 23 of that e-mail? 24 DR. VARUGHESE: I do not have it 25 in that particular exhibit list, I would</p>	<p style="text-align: right;">Page 165</p> <p>1 LEENA VARUGHESE 2 ? 3 A Yes. 4 Q And her e-mail, I'm sorry, her 5 pager was not working? 6 A She had a national pager. 7 Q Right, eventually. 8 So, basically we had no Chief 9 Residents on-site for -- 10 A Two weeks, she wasn't on-site 11 but she was the covering resident we had 12 Jonathan Chow in charge of conference 13 attendance making sure that he kept track of 14 the sheet so everything was covered. 15 Q Okay, great. 16 So, what are the other Chief 17 Resident responsibilities that you spoke of 18 earlier? 19 DR. WEINFELD: Why don't we 20 specifically ask what you're going to 21 ask, we covered this. 22 Q Basically does Chief Resident 23 have supervisory roles? 24 A In a broad overarching sense, 25 yes.</p>

<p style="text-align: right;">Page 166</p> <p>1 LEENA VARUGHESE 2 Q But not in the sense that if a 3 resident is sick or not able to perform their 4 duty they are going to cover or help them, or 5 any given day?</p> <p>6 A They either help to organize 7 coverage or they cover if they can't find 8 people and I have covered people who called out 9 sick, if necessary.</p> <p>10 Q Let's say for the first two 11 weeks there are residents, it's the first year 12 residents are on service, who is helping them 13 manage?</p> <p>14 A The other senior residents. 15 Q Not a Chief Resident? 16 A No, because no one is there.</p> <p>17 DR. LEITER: What's the point of 18 the question? 19 DR. VARUGHESE: I am just saying 20 they say that they are delegating 21 responsibilities and acting in 22 supervisory positions over the 23 residents, but then here we are, there 24 is nobody present. 25 DR. ROCCO: What does that have</p>	<p style="text-align: right;">Page 168</p> <p>1 LEENA VARUGHESE 2 So you don't know when he 3 decided that he couldn't present on the 15th?</p> <p>4 A I don't. 5 Q Do you know if he was at the 6 conference that day?</p> <p>7 A No, I was at the Dean's office. 8 I wasn't there.</p> <p>9 DR. VARUGHESE: Thank you. 10 DR. WEINFELD: Any further 11 questions? 12 Thank you.</p> <p>13 14 P A T L E N T O, called as a witness, 15 having been first duly sworn by the Notary 16 Public, was examined and testified as 17 follows: 18 19 DIRECT EXAMINATION BY DR. FIRPA: 20 21 Q Dr. Lento, would you state your 22 employer?</p> <p>23 A Mount Sinai Medical Center. 24 Q And your title? 25 A Excuse me?</p>
<p style="text-align: right;">Page 167</p> <p>1 LEENA VARUGHESE 2 to do with you? 3 DR. VARUGHESE: It just has to do 4 with the fact that we don't have a 5 resident who should be supervising or 6 on-site, acknowledgment of the policies 7 were not due until the 15th and here we 8 have somebody who is e-mailing saying 9 that these are the new policies, I 10 cannot even speak to her, she's not 11 there, her pager is not working. 12 I don't know, it just seems just 13 to --</p> <p>14 DR. BRONHEIM: Can we save this 15 for your own presentation, because it's 16 not really a question.,</p> <p>17 DR. WEINFELD: You will have a 18 chance to make whatever comments you 19 want to make about anything so we can 20 get through the witnesses and then go 21 forward.</p> <p>22 Q So one final question, I mean 23 this is just going to go back to the fellow who 24 was to present on the 15th who didn't present 25 on the 15th.</p>	<p style="text-align: right;">Page 169</p> <p>1 LEENA VARUGHESE 2 Q Your job title? 3 A I am currently residency program 4 director, autopsy director and cardiovascular 5 pathologist.</p> <p>6 Q What are your job duties as 7 program director of pathology residency? 8 A Oversee the program with regard 9 to the education of residents in all four years 10 of the pathology program.</p> <p>11 Q For how long and have you known 12 Dr. Varughese?</p> <p>13 A Since she was a PGY 1 resident.</p> <p>14 Q Could you describe to us your 15 relationship with her?</p> <p>16 A Well, she's a resident in the 17 program, so I have had the opportunity to deal 18 with her directly with regard to patient 19 specimens, autopsies, surgical specimens, and 20 in addition as program director with regard to 21 more recently disciplinary actions, et cetera.</p> <p>22 Q What is the nature of her 23 response to you, to your pages, to calls and to 24 efforts to contact and requesting actions 25 related to her performance?</p>

<p style="text-align: center;">Page 170</p> <p>1 LEENA VARUGHESE 2 A Well, one of the difficulties 3 that I have had with Leena is she virtually 4 never responded to my pages and infrequently 5 responded to my e-mails. 6 DR. BRONHEIM: Over what period 7 of time? 8 THE WITNESS: In general, I would 9 say that one of the problems that I have 10 had with, personally with Leena is that 11 she hasn't responded to pages over a 12 number of years. 13 DR. MARIN: This is not a new 14 problem it's something that's been 15 present for -- 16 THE WITNESS: No, it's not a new 17 problem at all. 18 Q Have in any way, shape or form 19 this affected her capacity to perform in 20 regards to the other residents and her duties 21 as part of the rotations to which she is 22 assigned? 23 A In terms of anything 24 specifically? 25 Q Yes.</p>	<p style="text-align: center;">Page 172</p> <p>1 LEENA VARUGHESE 2 Department had developed. 3 She was first in line from that 4 standpoint and the Chief Residents were unable 5 to reach her. 6 They let me know they were not 7 able to reach her, so I did try to reach out to 8 her myself. 9 I believe initially I tried to 10 send her an e-mail, but she did not respond, I 11 did try to Page her, but I did not receive a 12 response. 13 Subsequently I contacted her 14 directly at the rotation that she was on which 15 was the cytogenetics rotation, and I don't 16 believe she responded to my initial page, so I 17 spoke directly to the site director Dr. Najfeld 18 and let her know I needed to speak directly to 19 Leena. 20 And at that point I was able to 21 speak to Leena, she put her on the phone, I 22 explained to Leena the situation about the need 23 for her to cover. 24 She was resistent at first, I 25 explained to her that this was her job, her</p>
<p style="text-align: center;">Page 171</p> <p>1 LEENA VARUGHESE 2 A With regard to her pages. 3 Q Your inability to establish 4 contact with her, has it affected in any way 5 the quality of the service and the performance 6 of the other resident's service? 7 A I understand. 8 Well, in particular with regard 9 to an incident with regard to coverage when we 10 had the resident who was out, I tried to reach 11 Leena by paging her and was unsuccessful, but 12 this occurred after others had truly tried to 13 reach her for this same coverage issue. 14 Q Could you refer to the issue of 15 coverage requested of her on August 12th? 16 A Is that the incident on a 17 Friday? 18 Q The one regarding coverage for 19 the surgical pathology service due to the 20 illness of one of the residents. 21 A If I remember correctly this was 22 while Leena was on cytogenetics? 23 Q Correct. 24 A Leena was expected to cover the 25 surgical pathology based on the policy that the</p>	<p style="text-align: center;">Page 173</p> <p>1 LEENA VARUGHESE 2 duty, she was required to do it based on our 3 policy. 4 It was a fair policy and that 5 she then would need to cover the service that 6 day. 7 I think this was in the morning 8 probably around 10:00 or so, she did tell me at 9 that time that she would cover. 10 I indicated to her that she 11 needed to let the Chief Residents know that she 12 was going to be covering, that they were 13 overseeing the process and that I was only 14 serving, essentially, as an intermediary to get 15 this actually covered. 16 And I left it at that. 17 She did cover, she did go to 18 cover, I think it was frozen sections actually 19 that afternoon, but she did not contact the 20 Chief Residents and let them know that she 21 would be doing it. 22 Q Okay. 23 What was your involvement in her 24 persistent request to change her electives in 25 gastrointestinal pathology and switch to dermal</p>

<p style="text-align: center;">Page 174</p> <p>1 LEENA VARUGHESE 2 pathology? 3 A So that was in regard to this 4 year's schedule. 5 Q Yes, sir. 6 A Leena had been assigned to GI in 7 I believe it's October, and she had requested a 8 change, this was a rotation actually that she 9 had originally requested, so we offered to the 10 residents certain opportunities, I will call 11 them electives, this was one that Leena had 12 opted to choose on her own. 13 These selections are made to the 14 Chief Residents in advance of the schedule 15 being made, the schedule is then made and 16 residents have an opportunity in advance of the 17 schedule to come out to potentially make 18 alteration or question certain things, et 19 cetera. 20 That wasn't done initially, it 21 was only subsequent to the schedule coming out, 22 at which point the residents, including Leena, 23 were aware that we were not going to make 24 schedule changes unless there was a very 25 significant reason to do so.</p>	<p style="text-align: center;">Page 176</p> <p>1 LEENA VARUGHESE 2 Q Did Dr. Varughese provide a 3 reason for her insistence to be allowed to 4 proceed with this change? 5 A I believe she was interested in 6 switching with dermopath, I don't recall a 7 specific reason why she wanted to switch to 8 dermopath. 9 Q Was her request granted, 10 discussed, approved? 11 A It was denied. 12 Q Why was it denied? 13 A Because I didn't think that she 14 had an appropriate rationale for why she wanted 15 to change the rotation. 16 Q Did you at any time communicate 17 with Dr. Norman Harpaz regarding her direct 18 request to change her elective after being told 19 it had been denied? 20 A I don't remember speaking with 21 Norm directly after that. 22 Q Had you had any communications 23 with him over this issue, e-mails or whatever? 24 A I don't recall. 25 Q Who is Dr. Harpaz?</p>
<p style="text-align: center;">Page 175</p> <p>1 LEENA VARUGHESE 2 Q Would you explain the 3 circumstances under which a resident is allowed 4 to change an elective? 5 A Well, I guess if there is a 6 death in the family or an illness, if there is 7 extenuating circumstances that might require a 8 resident to have a schedule change. 9 Q How frequently are requests to 10 change electives made by a resident honored? 11 A I don't have a statistic on how 12 frequently they are. 13 Q In your opinion. 14 A Infrequently. 15 Q Why are they he so infrequent? 16 A Well, because any one particular 17 person's schedule can affect other people's 18 schedules. 19 So, it has, in a sense, a ripple 20 effect on things that can happen throughout the 21 scheduling. 22 You can't simply take one 23 resident off a particular rotation without 24 having someone fill in that particular 25 rotation.</p>	<p style="text-align: center;">Page 177</p> <p>1 LEENA VARUGHESE 2 A He's the director of 3 gastrointestinal pathology. 4 Q Would you refer to Exhibit 13 in 5 the small book, Department's Exhibit 13. 6 Would you briefly summarize what 7 they represent? 8 A I'm looking at an e-mail that I 9 sent to Norm about the switch. 10 And at this bottom e-mail I 11 indicated that Leena had made a request, she 12 had not done GI in the past, but had already 13 done dermopath and in addition the Chief 14 Residents had spoken with Dr. Phelps who was 15 the director of dermatopathology. 16 He was gracious enough to 17 indicate that Leena was welcome to join him in 18 the sign-out early before the GI rotation, so 19 if she was interested in gaining additional 20 dermatopathology exposure she could do so 21 before the start of the GI rotation. 22 Q Would you refer to the first 23 e-mail on that page, please? 24 A The top e-mail? 25 Q Yes -- the bottom.</p>

<p style="text-align: right;">Page 178</p> <p>1 LEENA VARUGHESE 2 A The one that starts Dear Chiefs? 3 Q Yes. 4 A So this is an e-mail from Norman 5 Harpaz. 6 DR. WEINFELD: What's the 7 question? 8 Q Does that refresh your memory 9 about this incident when she approached him 10 directly and led him to request to notify 11 everybody else about the procedure and 12 instructed her to proceed as she had been 13 repeatedly indicated to do?</p> <p>14 A Right. Well, apparently that's 15 obviously the e-mails, I don't recall directly 16 without the information in front of me.</p> <p>17 Q Are you aware of the issues 18 related to her failure to meet the required 80 19 percent attendance to the core conferences?</p> <p>20 A Yes, Leena and occasional other 21 residents have failed to meet the 80 percent 22 attendance requirement.</p> <p>23 As a result, Leena was asked to 24 provide an educational lecture that would cover 25 some of the material that was missed during her</p>	<p style="text-align: right;">Page 180</p> <p>1 LEENA VARUGHESE 2 Thursday morning conference. 3 Our Thursday morning conferences 4 essentially are grand rounds, residents present 5 every week or every other week various cases, 6 et cetera, so it was the perfect venue for 7 Leena to do something like provide this 8 educational conference.</p> <p>9 On the particular day Leena was 10 well aware that she was expected to give a 11 conference on that day, I was present and Leena 12 came in about 15 or 20 minutes late while the 13 first person was giving their presentation.</p> <p>14 She sat down right in front of 15 me, she didn't acknowledge anybody, she didn't 16 say hello.</p> <p>17 She sat there for about 10 18 minutes and as the presenter was finishing up, 19 Leena just got up and left.</p> <p>20 I was personally surprised 21 because I was under the expectation that she 22 was going to be giving a lecture but she 23 didn't.</p> <p>24 I didn't know why she decided to 25 just leave.</p>
<p style="text-align: right;">Page 179</p> <p>1 LEENA VARUGHESE 2 absences.</p> <p>3 Based on the policy that we had 4 designed we had tried to set something up so 5 that even if the resident had been absent they 6 would still be able to make up the material 7 from an educational standpoint.</p> <p>8 Q Were you aware of the events 9 that took place on September 15 during the 10 weekly residents pathology conference that she 11 was supposed to present after being absent for 12 two days because of illness?</p> <p>13 A Is September 15 a Thursday?</p> <p>14 Q Yes.</p> <p>15 A So, Leena had been asked to 16 provide an educational lecture, again, to make 17 up for some of the material she had missed 18 during her absences.</p> <p>19 I believe that the Thursday in 20 question that you raise was an alternate day.</p> <p>21 Originally Leena was asked to 22 provide the lecture on another day, and I 23 believe that she did not present on the initial 24 date.</p> <p>25 The subsequent date was the</p>	<p style="text-align: right;">Page 181</p> <p>1 LEENA VARUGHESE 2 Q Did you receive an e-mail from 3 Dr. Ara Blejwas regarding her conduct at that 4 conference?</p> <p>5 A I may have.</p> <p>6 I know we certainly talked about 7 it.</p> <p>8 Q Would you refer to Exhibit 12, 9 Department's Exhibit 12.</p> <p>10 A So he basically summarized the 11 situation, I think as I have already explained.</p> <p>12 Q So would you say it was fair 13 that she must have been aware that she was 14 expected to present on that morning since so 15 many of you expected her presentation to take 16 place?</p> <p>17 A Oh, I think there was no 18 question that she was aware.</p> <p>19 Q Did you have any e-mail 20 communications with me regarding her conduct at 21 this conference?</p> <p>22 A I don't recall, I may have.</p> <p>23 Q Would you refer to Department 24 Exhibit 11.</p> <p>25 A So, again, my e-mail basically</p>

<p style="text-align: right;">Page 182</p> <p>1 LEENA VARUGHESE 2 summarized what I've already described. 3 Q Did you meet with Dr. Varughese 4 regarding the other residents' concern about 5 her conduct and behavior at any time? 6 A During the academic year? 7 Q In this last weeks leading to 8 September 15th. 9 A No, I did not. 10 DR. FIRPA: No further questions. 11 DR. WEINFELD: Dr. Varughese.</p> <p>13 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>15 Q So, was there a fellow who was 16 supposed to present on Thursday morning? 17 Who were the fellows, who were 18 the two people that were supposed to present 19 that morning? 20 A Oh, I don't recall, it's not 21 always two people, necessarily, sometimes it's 22 just one person, and I believe I could be 23 mistaken that there was an open slot, in other 24 words there was one person scheduled for that 25 day, and you were provided the second slot in</p>	<p style="text-align: right;">Page 184</p> <p>1 LEENA VARUGHESE 2 always followed up with you regarding any 3 autopsy case, any given issues that come up, 4 have I not? 5 A Well, if you are talking about 6 call in particular, in general the contact 7 would have been initiated by you contacting me 8 about a case on the weekend, which is a little 9 bit different than me trying to reach out to 10 you. 11 Q Well, there are actually 12 instances where you have actually reached out 13 to me before. 14 DR. WEINFELD: Is there a 15 question you want to ask him? 16 Q I am saying there at least has 17 been one or several instances where you reached 18 out to me on a case that may or may not come in 19 because you are the director of autopsies here. 20 A Um-hum. 21 Q And I have responded to you 22 immediately, have I not? 23 A I didn't say that you never 24 responded to my pages, but you have a habit of 25 not responding.</p>
<p style="text-align: right;">Page 183</p> <p>1 LEENA VARUGHESE 2 order to provide your educational lecture. 3 Q So, you have said that I have 4 not responded to your pages. Can you give me 5 an example, I mean you say that I didn't 6 respond to your pages when you wanted me to 7 cover on August 12th. 8 A Right, yes; that's true, Leena. 9 Q But is it possible that I didn't 10 get the page that day. 11 I mean I don't think I got that 12 page. 13 A I find it hard to believe that 14 you wouldn't have received my pages. You 15 haven't responded to other pages that I have 16 sent out to you in the past. 17 And you've taken the opportunity 18 not to respond to e-mails that I have sent out 19 to you. 20 Not all the time, but it's a 21 pattern, as far as I'm concerned. 22 Q Well, how about this, how about 23 like we have been on call on weekends, on 24 autopsy call, I've never been on surgical 25 pathology call with you, but have I -- I have</p>	<p style="text-align: right;">Page 185</p> <p>1 LEENA VARUGHESE 2 Q I believe that's not true. 3 DR. BRONHEIM: Maybe I can help. 4 Q That's a misstatement that you 5 are making. 6 DR. BRONHEIM: Maybe I can help. 7 Outside of call, what percent of e-mails 8 and pages do you think Dr. Varughese has 9 not responded to, rough estimate? 10 THE WITNESS: Over the entire 11 residency? 12 DR. BRONHEIM: Yeah. 13 THE WITNESS: That's kind of a 14 hard one to estimate. 15 DR. MARIN: Take the past year. 16 THE WITNESS: Well, the past year 17 is potentially problematic, but I would 18 say that Leena has taken the opportunity 19 not just to not answer my pages, I can't 20 remember a single page of mine that 21 Leena has answered this year. 22 E-mails are haphazard. 23 DR. MARIN: Thank you. 24 Q Do you have my pager? 25 A On me?</p>

<p style="text-align: right;">Page 186</p> <p>1 LEENA VARUGHESE 2 DR. WEINFELD: His number. 3 A I have access. 4 Q Do you have access to my number? 5 A Of course, it's on my bulletin 6 board in my office. 7 Q So, you said that you denied 8 every request for the GI elective? 9 A Um-hum. 10 Q Were you the one who denied the 11 request or was it Dr. Firpa? I'm confused? 12 A Well, we, Dr. Firpa and I. 13 Q Your title is you are the 14 program director. 15 A Yes. 16 Q And Dr. Firpa's title? 17 DR. WEINFELD: Let him answer the 18 question. 19 A I am the program director, Dr. 20 Firpa is the educational director, starting 21 since July 1st, and Dr. Firpa and I 22 confirmed -- confer on a number of issues 23 regarding the residents as a whole. 24 Q So Dr. Firpa is director of 25 educational activities, Dr. Firpa is the</p>	<p style="text-align: right;">Page 188</p> <p>1 LEENA VARUGHESE 2 to exhibit from me Exhibit number 19. 3 DR. WEINFELD: We are there, go 4 ahead. 5 Q So that basically shows a list 6 of elective rotation requests for me for the 7 entire following year, GI is in fact there, but 8 there are also other rotations that I was 9 interested I was not -- 10 DR. WEINFELD: So what's the 11 question? 12 Q If the point is that because I 13 requested GI I was given that and not given 14 maybe like an elective pathology in bone and 15 soft tissue. 16 DR. WEINFELD: So what's the 17 question? 18 DR. VARUGHESE: I had made other 19 requests that wasn't granted. 20 DR. WEINFELD: I am still waiting 21 for a question. 22 DR. VARUGHESE: I would also like 23 you to refer to a different exhibit. 24 MR. McEVOY: Can I ask a 25 question, I'm not sure what this exhibit</p>
<p style="text-align: right;">Page 187</p> <p>1 LEENA VARUGHESE 2 director of educational activities? 3 A Yes. 4 Q So I made the request to him on 5 August 2nd and then he subsequently informed 6 you at some point to deny my request or -- 7 A We discussed the request, the 8 rationale potentially for having it. 9 And the decision was made that 10 we were going to deny it. 11 Q When was this decision made? 12 A I don't recall the specific day 13 in advance of the elective we made the decision 14 to deny the switch. 15 Q I would like -- 16 A And that was obviously 17 communicated to you. 18 But you knew in advance that we 19 were basically not going to permit switches 20 once the year had begun unless there was 21 significant extenuating circumstances. 22 In this particular situation, 23 you had requested the GI elective, and then 24 wanted to switch it to something else. 25 Q Actually I would like to refer</p>	<p style="text-align: right;">Page 189</p> <p>1 LEENA VARUGHESE 2 is, 19, I mean is this something that 3 Dr. Varughese created for this hearing, 4 is it some official -- 5 DR. WEINFELD: Could you tell us 6 what it is? 7 Go ahead, tell us what this is. 8 DR. VARUGHESE: This is actually 9 a form that's given to every resident in 10 the program that's already there, and 11 you get to list what you would like to 12 take next year. 13 You can say you want to take GI 14 elective, elective of the month, you can 15 can say I want to do hemopath several 16 months, maybe, whatever. 17 DR. WEINFELD: So what's the 18 question relating to this? 19 DR. VARUGHESE: It's just that I 20 had requested -- I just want to note 21 that I had requested other electives 22 other than GI. 23 DR. WEINFELD: You will have an 24 opportunity. 25 DR. MARIN: Thank you.</p>

<p style="text-align: right;">Page 190</p> <p>1 LEENA VARUGHESE 2 DR. VARUGHESE: Okay, next. 3 Q The next exhibit I would like 4 you to look at it is -- 5 DR. MARIN: Do you need the 6 witness any more? 7 DR. VARUGHESE: I do, actually. 8 DR. MARIN: Can you direct the 9 questions to him and then come to your 10 exhibits. 11 DR. VARUGHESE: Yes. 12 Q Dr. Lento, do you recall 13 e-mailing me that you had ended academic 14 advisement? 15 Period of academic advisement 16 has ended? 17 A Yes, I e-mailed you that the 18 period of the advisement had ended, that's 19 correct, and I wanted to meet with you to 20 discuss it, that's correct. 21 I think you misinterpreted it. 22 Q But according to the academic 23 advisement, which is exhibit -- it's in the 24 Department's Exhibit list. 25 DR. WEINFELD: Can you guys help</p>	<p style="text-align: right;">Page 192</p> <p>1 LEENA VARUGHESE 2 Q So did you determine that my 3 period of academic advisement had ended without 4 actually ensuring that I had met all the 5 requirements? 6 A If you note here in follow-up, 7 we will meet again in three months to review 8 your progress. 9 So basically at that point it 10 was around March when the period designed for 11 your academic advisement would have ended, but 12 we were to review your progress to determine 13 whether or not we would have to proceed with 14 any further disciplinary actions, or if you had 15 satisfied the criteria that we had laid down in 16 the academic advisement. 17 Then we may have taken you off 18 the disciplinary action and you could have 19 proceeded as other residents would have. 20 Q Okay, but you didn't try to 21 figure out if I had met all the requirements? 22 A You hadn't met all the 23 requirements. 24 Q Until April 26th. 25 A No, you had not met the</p>
<p style="text-align: right;">Page 191</p> <p>1 LEENA VARUGHESE 2 us with this, which one is that? 3 DR. FIRPA: Number 3. 4 Department's Exhibit 3. 5 MR. McEOY: That's the academic 6 advisement. 7 DR. WEINFELD: Right. 8 DR. WEINFELD: Do you want to ask 9 a question? 10 Q Yes, according to this it just 11 states that this is dependent on I 12 performed an academic advisement not 13 necessarily, so if he entered the period of 14 academic advisement without noting how I had 15 performed during the academic advisement 16 period, I don't understand why Dr. Lento would 17 make the statement that the period of academic 18 advisement had ended when, in fact, he hadn't 19 determined or deemed that and academic 20 advisement can -- 21 DR. WEINFELD: So the question 22 is? 23 Just form it in a question. It 24 sounds like there is a question there, so 25 go ahead and ask it.</p>	<p style="text-align: right;">Page 193</p> <p>1 LEENA VARUGHESE 2 requirements. 3 DR. WEINFELD: Did the meeting 4 take place, was there a meeting that 5 took place? 6 THE WITNESS: No, she basically 7 did not meet with me, she did not 8 respond to my e-mail, it wasn't until I 9 reached out to our Chair,, Dr. 10 Cordone-Cardo. 11 DR. VARUGHESE: That's not 12 actually right, my Exhibit 12 shows that 13 I did respond to Dr. Lento the following 14 day, in fact. 15 DR. WEINFELD: One second. 16 DR. VARUGHESE: I also spoke to 17 him, I know. 18 DR. WEINFELD: Let's go to 12, 19 hold on. 20 DR. WEINFELD: Big book number 21 12. In Exhibit 12 there is one e-mail 22 in there dated May 3rd. 23 DR. VARUGHESE: Well, the second, 24 it's a string e-mail string so on April 25 27 I say okay, I actually spoke to Dr.</p>

<p style="text-align: right;">Page 194</p> <p>1 LEENA VARUGHESE 2 Lento as well and he said okay, did you 3 get me my e-mail? 4 What's going on? 5 I said yes, I got your e-mail, okay 6 I will meet with you. Let me know when we 7 need to meet and -- 8 THE WITNESS: I believe that was 9 after Dr. Cordone-Cardo had already 10 reached out to you as Chairman. 11 DR. VARUGHESE: He reached out to 12 me, when did he reach out to? Me I 13 don't have that.</p> <p>Q Do you have that e-mail?</p> <p>DR. CORDONE-CARDO: I reached out to you as soon as I arrived in the program. In our first meeting was on May 3rd.</p> <p>DR. VARUGHESE: When did you arrive at the program?</p> <p>DR. CORDONE-CARDO: April 1st, so my first week of acting as the new Chair I already reached out to you and actually was the case it the including because I was worried about many</p>	<p style="text-align: right;">Page 196</p> <p>1 LEENA VARUGHESE 2 by either of you? 3 DR. MARIN: Question? Q Did you inform me of that? You didn't inform me of that? A I did not, that was not something --</p> <p>DR. WEINFELD: We have one question, actually, you want to ask it.</p> <p>DR. BRONHEIM: Dr. Lento, going back to notice of advisement in the Department's Exhibit binder, Exhibit 3, it says Dear Leena, this letter is to inform you, you are being placed on academic advisement. This decision is based on investigation of your altercations with other residents while on the surgical pathology rotation December 8 and December 10, 2010.</p> <p>THE WITNESS: Yes.</p> <p>DR. BRONHEIM: Do you remember what those altercations were about?</p> <p>THE WITNESS: Yes, I can briefly summarize it for you. I was actually away at the time at a meeting, and Leena</p>
<p style="text-align: right;">Page 195</p> <p>1 LEENA VARUGHESE 2 circumstances. 3 My time will come to answer the 4 questions and the first time we met was on 5 May 3rd.</p> <p>DR. WEINFELD: Any other 7 questions for this witness?</p> <p>Q Are you aware that I wasn't -- you never spoke to me or Dr. Firpa did not inform me that if I was interested in dermatopathology I can attend the sign-outs in the morning, or you had cleared that with Dr. Phelps.</p> <p>Did you clear that with Dr. Phelps? It seemed from this conversation with this question and answer session that took place, it seems that you had already discussed this with Dr. Phelps and that I was able to attend sign-out if I wanted to?</p> <p>A I did not have that direct conversation.</p> <p>Q But it seems that you were aware that I could do that if I wanted to?</p> <p>A Yes.</p> <p>Q But I was not informed of that,</p>	<p style="text-align: right;">Page 197</p> <p>1 LEENA VARUGHESE 2 was in an altercation with one of our 3 Chief Residents while shewas on the 4 surgical pathology service. 5 An altercation that was loud and 6 disruptive to the service related to her 7 ability to provide patient care with 8 regard to very specific specimens that she 9 was expected to be grossing or examine. 10 DR. BRONHEIM: There are two 11 dates, was it like one extended episode 12 with a single Chief Resident? 13 THE WITNESS: If I recall 14 correctly the December 10th incident was 15 related to another resident that she was 16 blaming for having us caused all the 17 problems that have basically resulted in 18 her being essentially placed on academic 19 advisement. 20 DR. BRONHEIM: Thank you. 21 DR. WEINFELD: Any further 22 questions? Q Who was the other resident that I blamed? A Dr. Jordan.</p>

<p style="text-align: right;">Page 198</p> <p>1 LEENA VARUGHESE 2 DR. MARIN: No further questions? 3 DR. VARUGHESE: No, not at the 4 moment. 5 DR. WEINFELD: Thanks very much. 6 THE WITNESS: Thank you. 7 DR. VARUGHESE: Actually can we 8 bring Dr. Lento back? 9 DR. WEINFELD: No, but in your 10 statement you can address an issue if 11 you need to address it.</p> <p>12 S H E M A P A T E L, called as a 13 witness, having been first duly sworn by 14 the Notary Public, was examined and 15 testified as follows:</p> <p>16 DR. WEINFELD: Okay.</p> <p>17 DIRECT EXAMINATION BY DR. FIRPA:</p> <p>18 Q Thank you, Ms. Patel. 19 Who is your employer? 20 A Mount Sinai Medical Center. 21 Q What is your job title?</p>	<p style="text-align: right;">Page 200</p> <p>1 LEENA VARUGHESE 2 I was supposed to meet her in the resident 3 room, but she met me at the elevators and she 4 took the folder from me. 5 At that point I did not have any 6 further discussions with her after that.</p> <p>7 Q Did you at any time emphasize to 8 her the importance of having a doctor's 9 appointment as part of her application?</p> <p>10 A Yes, I did.</p> <p>11 Q Did she agree to proceed with 12 that request?</p> <p>13 A Yes, she said she was going to 14 call her doctor and get back to me the next 15 day.</p> <p>16 Q On September 20th, you met with 17 Dr. Varughese ones again, were you aware that 18 she had requested a leave of absence by then?</p> <p>19 A No, I was not.</p> <p>20 Q Were you also aware that Dr. 21 Varughese had been instructed not to come to 22 work pending approval of her request for leave?</p> <p>23 A Yes, I was.</p> <p>24 Q How did you know that?</p> <p>25 A Yes, I did.</p>
<p style="text-align: right;">Page 199</p> <p>1 LEENA VARUGHESE 2 A Currently I am interim 3 department administrator for pathology. 4 Q What are your job duties as 5 administrator of the pathology department? 6 A The day-to-day operation, 7 financial, dealing with residents, employees, 8 faculty. 9 Q Do you recall on September 15 10 meeting with me and Dr. Varughese following the 11 incident early morning when she was considered 12 to be unstable? 13 A Um-hum. 14 Q Did you remember, and can you 15 relate to us what happened when you gave her 16 information about her request for a leave of 17 absence? 18 A Sure. When we met with her we 19 discussed FMLA, we talked to her about giving 20 her papers later in the day to go she should 21 meet with me to go over the FMLA paperwork, the 22 designation form and such papers like that. 23 Q Did you meet with her later on 24 that day? 25 A Yes, she met me on Annenberg 15,</p>	<p style="text-align: right;">Page 201</p> <p>1 LEENA VARUGHESE 2 Q How did you know that? 3 A Oh, how did I know that. You 4 and I had discussed it with Karen Tiger and 5 Paul Johnson the day before and it was 6 instructed that she should not appear to work 7 until we knew what the status of her FMLA was. 8 Q Did you attempt to contact her 9 on September 16th and 19th? 10 A Yes, I did. 11 Q Why? 12 A Because we had not heard from 13 her, she had not come to work and we were 14 genuinely concerned about her well-being. 15 Q Did she respond to any of your 16 e-mails or phone calls? 17 A No. 18 Q On September 20th did you see 19 her at or near Mount Sinai? 20 A It was close to Mount Sinai, 21 yes. 22 Q Where and at what time? 23 A It was a Starbucks at 97th and 24 Lexington or 96th and Lexington. 25 Q At what time?</p>

<p style="text-align: right;">Page 202</p> <p>1 LEENA VARUGHESE 2 A Around 8:00 a.m. a little before 3 8:00 a.m. 4 Q Did you speak to her? 5 A As I was walking in I saw her 6 and she approached me. 7 Q What was the conversation about? 8 A She had wanted to know about 9 deferring her FMLA, she said she was feeling 10 better and wanted to not take it at that time. 11 Q Did she mention anything else 12 about her intent of activity for that day? 13 A She said she was headed to a 14 conference but she wanted to know more about 15 deferring her FMLA, so I knew that she 16 shouldn't go to conference because the 17 residents had concerns, the faculty had 18 concerns, so I asked her to come with me to my 19 office. 20 Q What did you do then? 21 A So we got there, we sat down and 22 we started talking and then a visitor came in 23 looking for the President. 24 Q What happened then? 25 A So I walked out to just point to</p>	<p style="text-align: right;">Page 204</p> <p>1 LEENA VARUGHESE 2 I asked her again, it was like 3 what are you doing, why were you going through 4 my files? 5 And she said what's the big 6 deal? And I said how would you feel if someone 7 went through your things. 8 Your purse is sitting there, how 9 would you feel if you caught me going through 10 your purse? 11 I said if I walked into your 12 work station and was going through your work 13 station how would you feel if I went through 14 your things? 15 I said my office is 16 confidential, you know, I have files in my 17 office that are confidential and you shouldn't 18 go through them, it's unprofessional. 19 She continued to say what's the 20 big deal? She stated that I should chill out 21 and it didn't phase her that it was wrong. 22 DR. BRONHEIM: Could these have 23 been confidential files? 24 THE WITNESS: Yes, I work in the 25 office of the President in my real job,</p>
<p style="text-align: right;">Page 203</p> <p>1 LEENA VARUGHESE 2 where Dr. Davis' office was, came right back to 3 my office and literally a few seconds and she 4 was going through some of my files. 5 DR. WEINFELD: On a computer, in 6 a file cabinet? 7 A No, there were files in my desk. 8 There was a stack of files in the corner of my 9 desk. 10 DR. BRONHEIM: Can you describe 11 what you observed? 12 THE WITNESS: As I was walking in 13 I saw her going through the files like 14 this, looking at what was inside. 15 DR. BRONHEIM: Were they other 16 people's files or whose files were they? 17 THE WITNESS: They were my files, 18 like department files. 19 Q What did you -- did you ask her 20 what she was doing? 21 A Yes, I asked her. I said Leena, 22 what are you doing, why are you going through 23 my files? 24 And she kind of didn't say 25 anything at first.</p>	<p style="text-align: right;">Page 205</p> <p>1 LEENA VARUGHESE 2 yes. 3 DR. FIRPA: No further questions. 4 DR. WEINFELD: Dr. Varughese. 5 6 CROSS-EXAMINATION BY DR. VARUGHESE: 7 8 Q So, you called me on Tuesday was 9 it, September what was it, 20th? Or the 19th, 10 you called me on the 19th. 11 A Yes, I called you on the 16th 12 and the 19th. 13 Q So you called me on the 19th, 14 why did you ask me to come to your office on 15 the 19th? 16 A I didn't ask you to come to my 17 office on the 19th. 18 Q You did. You called, you left a 19 message, said you need to speak with me. 20 A I asked you what the status of 21 the FMLA was, but I asked you if you were able 22 to speak to your physician to get the paperwork 23 going because I wanted to help you. 24 Q So let me rephrase the question, 25 did I come to your office on the 19th, this is</p>

<p style="text-align: right;">Page 206</p> <p>1 LEENA VARUGHESE</p> <p>2 Monday?</p> <p>3 A I have to recall, was that the</p> <p>4 day you came to sign the designation form?</p> <p>5 Q Well, that was the day I came so</p> <p>6 that you can sign the designation form and gave</p> <p>7 it to you --</p> <p>8 A I believe the 19th, yes, you</p> <p>9 came.</p> <p>10 Q Because you needed a date</p> <p>11 verifying and the medical leave of absence</p> <p>12 form?</p> <p>13 A I believe what was the day? I</p> <p>14 don't recall, but I can check.</p> <p>15 Q That was the 19th?</p> <p>16 DR. WEINFELD: Move on.</p> <p>17 Q That was Monday afternoon,</p> <p>18 Monday evening like 4:30?</p> <p>19 A Okay.</p> <p>20 Q And Kimberly Joseph, she was</p> <p>21 there?</p> <p>22 A She was there to witness that.</p> <p>23 Q So essentially you didn't like</p> <p>24 date and sign these forms or anything up until</p> <p>25 then?</p>	<p style="text-align: right;">Page 208</p> <p>1 LEENA VARUGHESE</p> <p>2 form and do you mind dating it, so when after I</p> <p>3 have spoken to my doctor and they actually</p> <p>4 approve the family medical leave of absence?</p> <p>5 A We never talked about</p> <p>6 backdating.</p> <p>7 Q I did ask you --</p> <p>8 DR. MARIN: You can ask her the</p> <p>9 question. If she says no, you can't</p> <p>10 keep asking her. She has a right to say</p> <p>11 yes or no, yes or no.</p> <p>12 DR. VARUGHESE: All right.</p> <p>13 Q So I asked you that, if you</p> <p>14 could date the form to when after I have spoken</p> <p>15 to my doctors and then they will approve it,</p> <p>16 did I have that conversation with you?</p> <p>17 A No, we talked about -- you</p> <p>18 talked about deferring your FMLA.</p> <p>19 Q I didn't talk about deferring my</p> <p>20 FMLA?</p> <p>21 DR. MARIN: Remember, yes or no,</p> <p>22 you asked her, she said no, you go on to</p> <p>23 your next question.</p> <p>24 Q So the next question is but you</p> <p>25 at that point said where are you going?</p>
<p style="text-align: right;">Page 207</p> <p>1 LEENA VARUGHESE</p> <p>2 But you were supposed to have</p> <p>3 before you you gave them to me, right?</p> <p>4 A What do you mean?</p> <p>5 Q You were supposed to date and</p> <p>6 sign because you dated the forms for when, when</p> <p>7 you signed it?</p> <p>8 A Right, because remember we were</p> <p>9 supposed to meet and you met me at the elevator</p> <p>10 and you took the forms from me, I told you you</p> <p>11 should come sit down and meet with me so we can</p> <p>12 could designate the form.</p> <p>13 Q No, you didn't, you didn't say</p> <p>14 that to me.</p> <p>15 DR. WEINFELD: Where are you</p> <p>16 going with this? What's the question?</p> <p>17 Q So basically you backdated the</p> <p>18 form?</p> <p>19 A I didn't backdate it, I dated</p> <p>20 that day the 19th or whatever day it was.</p> <p>21 Q All right, so the following</p> <p>22 morning I saw you at Starbucks, right?</p> <p>23 A Yes.</p> <p>24 Q So I said hello to you just to</p> <p>25 be polite and I just said oh, you dated that</p>	<p style="text-align: right;">Page 209</p> <p>1 LEENA VARUGHESE</p> <p>2 A That is correct.</p> <p>3 Q And I said I'm going to the CP</p> <p>4 core conference, that's at 8:00 at the Icahn</p> <p>5 building, right?</p> <p>6 A Um-hum.</p> <p>7 Q And what did you say, you said</p> <p>8 you can't go to the floor, what did you -- you</p> <p>9 said I couldn't go to the floor?</p> <p>10 A I asked you if you can come with</p> <p>11 me, so I can put you in contact with Karen</p> <p>12 Tiger to talk more about the FMLA.</p> <p>13 Q Why did I need to talk more</p> <p>14 about the FMLA at that point?</p> <p>15 A Because you approached me in</p> <p>16 Starbucks and you had questions about it.</p> <p>17 Q I just had a minor question</p> <p>18 about dating issues, but then in terms of</p> <p>19 dating the form to when I actually take the</p> <p>20 leave, because obviously from that day onward</p> <p>21 is when the FMLA is in effect.</p> <p>22 So you told me that I couldn't</p> <p>23 go to the floor and you asked me to come to</p> <p>24 your office?</p> <p>25 DR. WEINFELD: Is there a</p>

<p style="text-align: center;">Page 210</p> <p>1 LEENA VARUGHESE 2 question? 3 Q Yes. 4 A Yes. 5 Q So when I was in the office, 6 what were you doing, you were calling, who were 7 you calling? 8 A I didn't make a phone call, I 9 e-mailed Karen Tiger and Dr. Firpa to let them 10 know you were here. 11 Q So, did Dr. Firpa come 12 downstairs to your office that morning? 13 A He did, yes. 14 Q This was before 9:00 a.m.? 15 A I believe so, yes. 16 Q So meanwhile I was telling you 17 that I wanted to go to the CP core conference 18 because I was not sick, right? 19 A I don't recall actually, to be 20 honest with you. 21 Q That's fine. 22 So then you stepped out, tell me 23 what was on your desk? 24 A I had a stack of files on my 25 desk.</p>	<p style="text-align: center;">Page 212</p> <p>1 LEENA VARUGHESE 2 office, right? 3 A Correct. 4 Q And you left, you left me alone 5 in your office? 6 A For a few seconds only. 7 Q For a few seconds. 8 A Yes. 9 DR. WEINFELD: Okay, go ahead. 10 DR. VARUGHESE: In my 11 recollection it wasn't a few seconds. 12 Q So when you came back you 13 think -- you thought that I was looking at your 14 files? 15 A I saw you looking at the files. 16 Q Did you see me like what 17 happened, was it in my lap, was it like this? 18 A No, it was still on my desk. 19 Q Okay, all right, so they were 20 still on the desk. 21 Do you often leave people alone 22 in your office? 23 A If someone comes to see the 24 President of the medical center and I have to 25 help them, yes.</p>
<p style="text-align: center;">Page 211</p> <p>1 LEENA VARUGHESE 2 Q How many files was that? 3 A I don't recall, I have tons of 4 files on my desk at a given time, I don't 5 remember how many exactly. 6 Q Well, this is what I remember, 7 because I was accused of looking through her 8 files. 9 DR. WEINFELD: So ask her a 10 question. 11 Q So as I recall there was one 12 file, a green file, actually, that's on your 13 desk at the corner and I was sitting in front 14 of it and my coffee was right next to it, so 15 that's all I recall. 16 DR. WEINFELD: Is there a 17 question. 18 Q Is that what you recall or do 19 you recall several different files? 20 A I recall several different 21 files. 22 Q That's all I need to know. So I 23 only recall one file there. 24 So you -- somebody came by the 25 door and they wanted to be escorted to a nearby</p>	<p style="text-align: center;">Page 213</p> <p>1 LEENA VARUGHESE 2 Q Especially -- well, when you 3 have confidential documentation or documents in 4 your office, do you think that's appropriate? 5 A People at Mount Sinai I trust 6 and would never think would do something -- 7 Q I wasn't at Mount Sinai at that 8 point. I guess you trusted me, okay. 9 So my point -- 10 DR. MARIN: No point, are there 11 any or questions for this witness? 12 DR. VARUGHESE: I do. 13 DR. MARIN: Please go ahead with 14 your questions. 15 Q So you decided to call Karen 16 Tiger and basically you wanted me to go over to 17 meet her, why was that? 18 A So you can discuss the FMLA 19 paperwork and the incident in my office, 20 because I -- 21 Q But you were just -- that just 22 came up on the fly, not even necessarily? 23 A I have e-mailed her again 24 afterwards for the incident, Dr. Firpa was on 25 that e-mail as well.</p>

<p style="text-align: right;">Page 214</p> <p>1 LEENA VARUGHESE 2 Q But there was really no -- 3 DR. MARIN: Dr. Varughese, back 4 to the questions. You ask her a 5 question, she'll respond to it, then you 6 ask her another question. 7 It's not open for discussion. 8 DR. VARUGHESE: There was nothing 9 here that wanted me to go through her. 10 DR. MARIN: This is not a 11 discussion, you will have a chance later 12 to give your opinion. 13 DR. VARUGHESE: All right, sorry. 14 Q So, do you think what I talked 15 to you, just me having a basic question about 16 the FMLA leave basically warranted you dragging 17 me to your office and making me wait there for 18 the entire core conference that morning, or 19 were there other reasons for that? 20 A No, there wasn't. 21 Q That was your only reason. 22 That's all I needed to know, good. 23 DR. MARIN: Thank you. 24 DR. WEINFELD: Thanks very much. 25 MR. MacDONALD: Let's make it</p>	<p style="text-align: right;">Page 216</p> <p>1 LEENA VARUGHESE 2 medical education. 3 Q What are your duties in that 4 capacity? 5 A I help to oversee the residency 6 programs in our consortium, there are 91 in 7 all, so we help to assess program quality and 8 to help programs with their curricula, also to 9 help with resident issues, to help residents 10 resolve concerns and to assist programs when 11 they are dealing with resident issues. 12 Q Would you describe 13 professionalism standards and core 14 requirements? 15 A So there are six ACGME core 16 competencies that are expected to be part of 17 resident education. 18 One of them, one of those 19 competencies is professionalism, so residents 20 are expected to attain this competency which 21 entails having compassion and respect for 22 others, to have a commitment to patient care 23 that supersedes self-interest, and to display 24 sensitivity to a diverse range of patients and 25 to be dependable and to just sort of embody</p>
<p style="text-align: right;">Page 215</p> <p>1 LEENA VARUGHESE 2 clear that Dr. Varughese' binder with 3 the documents are in the record, are 4 admitted in the record and the Committee 5 will take them for what they are worth 6 and connect them to the testimony as 7 appropriate. 8 And the same is true with the the 9 Department's exhibits, so that there is no 10 question what's in and what's out of the 11 evidence. 12 DR. MARIN: Understood. 13 14 P A U L J O H N S O N, called as a 15 witness, having been first duly sworn by 16 the Notary Public, was examined and 17 testified as follows: 18 19 DIRECT EXAMINATION BY DR. FIRPA: 20 21 Q Good evening, Mr. Johnson. 22 Who is your employer? 23 A Mount Sinai School of Medicine. 24 Q What is your job title? 25 A Director of GME, graduate</p>	<p style="text-align: right;">Page 217</p> <p>1 LEENA VARUGHESE 2 professionalism as it's defined by the ACGME. 3 Q Do you recall any questions or 4 clarifications regarding Dr. Varughese and 5 advice to the Department during the period 6 after her final warning? 7 A Yes. 8 Q Would you tell us about that? 9 A Are we talking about advising 10 Dr. Varughese or advising the Department. 11 Q Advising the Department on how 12 to deal. 13 A So, in the period after the 14 final warning, the first time the Department 15 sought advice from our office was in Dr. 16 Firpa's first meeting with Dr. Varughese as 17 outlined in the final warning. 18 Dr. Varughese was initially 19 refusing to participate in the meeting and Dr. 20 Firpa called a couple of times when Dr. 21 Varughese was saying things such as that the 22 Department needed to speak with her lawyer 23 regarding all of the professionalism concerns. 24 So, I made sure that the 25 Department was aware that Dr. Varughese didn't</p>

<p style="text-align: right;">Page 218</p> <p>1 LEENA VARUGHESE 2 have an option about participating in these 3 meetings, and the meeting eventually did go 4 forward. 5 After that, the program was -- 6 Dr. Firpa was new to his position and so I 7 would receive fairly regular updates about Dr. 8 Varughese' performance. 9 At -- I would say the next time 10 I became aware of an issue it related to the 11 coverage for surgical pathology. 12 The Chief Residents were having 13 issues with Dr. Varughese and I advised Dr. 14 Firpa to have the program leadership address 15 the concerns, to sort of back up the Chief 16 Residents in what they were experiencing. 17 After that, we did have some 18 interaction with the Department related to Dr. 19 Varughese' requests to switch her elective 20 rotation. 21 We were aware that the 22 Department had really been paying a lot of 23 attention to AP time, anatomic pathology and 24 clinical pathology time and how it was balanced 25 in resident schedules and we were confident</p>	<p style="text-align: right;">Page 220</p> <p>1 LEENA VARUGHESE 2 what they are represent? 3 A This was an e-mail responding to 4 Dr. -- an e-mail from Dr. Varughese about on 5 various topics, including who was responsible 6 for the -- being program director in pathology, 7 access to various policies in the Department, 8 also whether she was required to present proof 9 of an illness when she refused to take a call 10 assignment, and also related to the resident 11 schedules and the division between anatomic 12 pathology time and clinical pathology time. 13 Q What did you say about all this? 14 A I just -- most of the e-mail was 15 just clarifying policies and procedures, I mean 16 there is one clearly designated program 17 director who is Dr. Lento, and both Dr. Firpa 18 and Dr. Lento have responsibilities related to 19 the residency, but in terms of the ACGME and 20 designating someone, Dr. Lento was the program 21 director. 22 With regard to the policies, I 23 did offer her assistance if she was looking for 24 a particular policy, I was willing to sort of 25 help her in talking to the Department to make</p>
<p style="text-align: right;">Page 219</p> <p>1 LEENA VARUGHESE 2 that the Department had really given good 3 consideration to the request and ultimately 4 denied it. 5 So we sort of stood by the 6 Department in its decision there and then in 7 the final period there was sort of rapid 8 sequence of advice that was given to the 9 Department about the need for leave and that 10 was, I don't know, should I -- 11 DR. WEINFELD: Go ahead. 12 Q How did you become aware that 13 Dr. Varughese was requesting a leave of 14 absence? 15 A I became aware of Dr. Varughese' 16 need for leave when she was expected to give a 17 conference presentation in mid-September and 18 she didn't give that presentation. 19 Dr. Firpa met with her after she 20 didn't present and reported to us that Dr. 21 Varughese was unable to perform her function as 22 a resident because she was having serious 23 issues. 24 Q Would you refer to Exhibit 15, 25 Department's Exhibit 15, and briefly describe</p>	<p style="text-align: right;">Page 221</p> <p>1 LEENA VARUGHESE 2 sure that if there was such a policy that the 3 residents would have access to it. 4 I confirmed that she was 5 required to submit proof of illness if the 6 Department was requesting it and I also assured 7 her that Dr. Firpa and Dr. Lento were carefully 8 looking into the resident schedules to make 9 sure that the ACGME requirements for time in 10 each side of pathology were met. 11 Q Let's go back to the request for 12 leave of absence following September 15th. 13 Were you aware that I had 14 instructed her not to come to work pending 15 approval of her leave request? 16 A Yes. 17 Q Were you aware that Dr. 18 Varughese ignored that request and continued 19 coming to work? 20 A I didn't become aware of it 21 until the following week, but yes. 22 DR. WEINFELD: Dr. Firpa, was 23 that request made in writing, the 24 request for her not to come to work? 25 DR. FIRPA: Yes, on the 16th.</p>

<p style="text-align: center;">Page 222</p> <p>1 LEENA VARUGHESE 2 DR. WEINFELD: Can we have a copy 3 of that somewhere? 4 DR. BRONHEIM: Under Mount Sinai 5 law if that is written, is that -- 6 DR. WEINFELD: There is no Mount 7 Sinai law. 8 DR. BRONHEIM: Mount Sinai 9 guidelines, if such a letter is written, 10 does it prohibit the resident from 11 appearing. 12 DR. LEITER: Is there 13 documentation of her -- is there any 14 documentation of your request for her 15 not to come back? 16 DR. WEINFELD: It looks like 17 Exhibit 16, does that cover -- it's an 18 e-mail from Dr. Firpa to Dr. Varughese. 19 DR. FIRPA: Yes, on the last 20 paragraph the second sentence from the 21 last. 22 I must also ask you not to return 23 without the doctor's note and assessment 24 for the leave of absence. 25 DR. WEINFELD: Okay, thank you.</p>	<p style="text-align: center;">Page 224</p> <p>1 LEENA VARUGHESE 2 Q Well, did you recall that she 3 had intended to go to work and she was in 4 violation of her direct and explicit request by 5 me not to come to work until the doctor's note 6 was provided and fill in the application for 7 leave of absence? 8 A Yes. 9 Q What happened during that 10 meeting between you, Dr. Varughese and Karen 11 Tiger? 12 A I think first we were interested 13 in knowing why Dr. Varughese hadn't responded 14 to e-mail and phone contact from the program to 15 follow up on her leave of absence. 16 And her response to that was 17 that she didn't respond to the -- this contact 18 because it didn't contain any questions, it 19 just -- these contacts just stated facts. 20 And I think she said if they had 21 asked me whether I was working I would have 22 said yes, and it was difficult to determine why 23 she had been coming to work even though the 24 Department had asked her not to be working in 25 the period where her FMLA paperwork was being</p>
<p style="text-align: center;">Page 223</p> <p>1 LEENA VARUGHESE 2 Q Did the GME office take any 3 action with regard to what I have told you 4 about the meeting with Dr. Varughese on the 5 15th? 6 A Yes, we did provide some advice 7 about leave, but the day that followed Dr. 8 Varughese' initial request for leave I 9 contacted the physician wellness committee to 10 arrange for an assessment. 11 Well, to ask them to arrange for 12 an assessment. 13 DR. WEINFELD: Do we know if that 14 assessment ever took place? 15 THE WITNESS: If never took 16 place. 17 Q Did you meet with Dr. Varughese 18 on September 20th? 19 A September 20th, yes. 20 Q How did that meeting come about? 21 A It came about because Ms. Patel 22 on the morning of the 20th had encountered Dr. 23 Varughese at Starbucks and had arranged with 24 Ms. Tiger Paillex to meet with her and me, that 25 is the answer to your question.</p>	<p style="text-align: center;">Page 225</p> <p>1 LEENA VARUGHESE 2 filled out. 3 We also asked about wellness 4 because we knew that Mr. Hughes from the 5 wellness committee had been trying since the 6 previous Friday to contact Dr. Varughese, and 7 was unsuccessful and Dr. Varughese said that 8 she found the wellness committee to be 9 unhelpful in her previous interaction with 10 them, that she had been trying to obtain a 11 report from them that she never received and we 12 or I told her that participation with the 13 wellness committee was mandatory, and that a 14 resident couldn't refuse to cooperate without 15 facing possible disciplinary action. 16 At which point she said that she 17 would consider making an appointment with them 18 at her convenience. 19 Ms. Tiger Paillex and I found 20 that answer to be unsatisfactory so we got 21 wellness on the phone while we were there and 22 arranged an appointment between Dr. Varughese 23 and Dr. Hughes for that Thursday. 24 We also asked her questions 25 about and the incident that had happened less</p>

<p style="text-align: right;">Page 226</p> <p>1 LEENA VARUGHESE 2 than an hour before in Ms. Patel's office. 3 Dr. Varughese initially said she 4 didn't want to say anything about the incident, 5 but then had an explanation where her coffee 6 was next to some documents and Ms. Patel 7 misunderstood the situation. 8 But then went into -- so Ms. 9 Tiger Paillex then said you realize that Ms. 10 Patel has confidential files in her office? 11 And Dr. Varughese' response was 12 if somebody has confidential files in their 13 office, they shouldn't leave people unattended 14 with them. 15 And I mean that was pretty much 16 the extent of the conversation.</p> <p>Q Do you remember at any time during that conversation she made reference to her intent to see a psychiatrist and what was the outcome of that intent?</p> <p>A By that point she had seen one physician and she had told us that that physician had denied to certify the leave.</p> <p>Declined to certify the leave.</p> <p>Q Were you involved in the</p>	<p style="text-align: right;">Page 228</p> <p>1 LEENA VARUGHESE 2 with patients. Q Would you refer to Exhibit number 1; the Department's Exhibit 1. And briefly summarize what this represents -- you don't have to, it's there.</p> <p>DR. WEINFELD: Thank you.</p> <p>Q Are the reasons for her termination set out in her letter?</p> <p>DR. WEINFELD: Let the record reflect that item number 1 in the Pathology Department's record indicates the summary suspension termination.</p> <p>A Everything that's here does support the termination.</p> <p>At a certain point, it doesn't go right up until the end of Dr. Varughese's service at Mount Sinai, but at a certain point the documentation in this letter had to stop in order for the termination to take place, so there may be some issues that happened after the time period covered in the letter, but I think what's here does represent an accurate record of the professionalism issues.</p>
<p style="text-align: right;">Page 227</p> <p>1 LEENA VARUGHESE decision to summarily suspend and terminate Dr. Varughese?</p> <p>A Yes.</p> <p>Q Why was she terminated?</p> <p>A I think in the period from the final warning to the termination there were several incidences that consistently demonstrated a failure to meet the professional standard, professionalism standards for residency.</p> <p>It also became apparent towards the very end that there was in my mind some danger to patients.</p> <p>Because Dr. Varughese had requested leave and it seemed as though there was something serious going on with her, the GME office and the Department really wanted to make sure that that serious condition was addressed.</p> <p>Dr. Varughese' failure to follow up on that really created a problem in that she was returning to work when we didn't feel that she was able to function as a resident.</p> <p>And that poses potential issues</p>	<p style="text-align: right;">Page 229</p> <p>1 LEENA VARUGHESE</p> <p>DR. FIRPA: Thank you. No further questions.</p> <p>DR. WEINFELD: Dr. Varughese.</p> <p>CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>Q So, you were aware that I had already spoke to one of my physicians and they denied me the family medical leave of absence as of Tuesday morning?</p> <p>A Yes.</p> <p>Q And they deemed me fit to work, which means that they thought I didn't need the family medical leave of absence?</p> <p>DR. WEINFELD: We know what that means.</p> <p>DR. BRONHEIM: Did you provide a letter to that effect?</p> <p>DR. LEITER: Is there a document?</p> <p>DR. BRONHEIM: Do you have a document?</p> <p>DR. WEINFELD: So, you have documentation that you saw a physician.</p> <p>DR. BRONHEIM: Who made that</p>

<p style="text-align: right;">Page 230</p> <p>1 LEENA VARUGHESE 2 statement? 3 DR. VARUGHESE: I spoke to a 4 physician who said she's not 5 comfortable. 6 DR. WEINFELD: Is this somebody 7 you saw as a patient or somebody you 8 spoke to? 9 DR. VARUGHESE: Somebody I spoke 10 to regarding what was happening. 11 DR. WEINFELD: Okay, so go ahead, 12 ask your question. 13 A So, yes. 14 Q So that afternoon I followed up 15 with you and I said I saw my physician, do you 16 remember me saying that to you? 17 I saw the physician? 18 A The second physician. 19 Q Yes, I saw my physician I told 20 you that? 21 A Yes, who also declined to 22 certify the leave of absence. 23 Q Yes, who has declined to certify 24 the leave of absence and thought that I should 25 be at work.</p>	<p style="text-align: right;">Page 232</p> <p>1 LEENA VARUGHESE 2 DR. MARIN: It's a statement 3 then, you don't have any evidence for 4 it, is what I'm asking? 5 DR. VARUGHESE: I don't and I 6 never had an opportunity to give that 7 document to the Department. 8 Q So I want you to refer to 9 Exhibit 26. 10 DR. WEINFELD: In the big book. 11 Okay. 12 Q So my question is this, when 13 were you aware that Dr. Firpa was -- when did 14 Dr. Firpa tell you I'm not supposed to be at 15 the hospital because I'm not well, what date? 16 A It was the date of this e-mail, 17 Thursday the 15th. 18 Q Thursday the 15th. 19 So, here is an e-mail that Dr. 20 Firpa sent to me Thursday the 15th. 21 The tone, the sentiment 22 expressed in this e-mail is -- 23 DR. LEITER: What's the question? 24 Q In this e-mail he doesn't -- he 25 seems to, Dr. Firpa, seems to understand --</p>
<p style="text-align: right;">Page 231</p> <p>1 LEENA VARUGHESE 2 A Yes. 3 Q And this is a physician who has 4 reviewed my medical history extensively, has 5 known me for at least three plus years. 6 DR. BRONHEIM: Wait a minute, he 7 doesn't know that. 8 Have you provided evidence? 9 DR. VARUGHESE: I am telling you 10 there is a person who knows me for over 11 3 years. 12 DR. MARIN: For clarification, is 13 the documentation about that physician 14 in your statement, one of your points in 15 here? 16 DR. VARUGHESE: Well, he didn't 17 fill the form, but I have a letter 18 saying that I saw him that day. 19 DR. MARIN: Is that in here so we 20 can review it? 21 DR. VARUGHESE: No, it's not in 22 there. 23 I mean it's something I would have 24 given to the Department. 25 DR. WEINFELD: Go ahead.</p>	<p style="text-align: right;">Page 233</p> <p>1 LEENA VARUGHESE 2 DR. MARIN: This is something you 3 would have to address with Dr. Firpa. 4 You have a different witness on the 5 stand, so your question should be 6 pertaining to him. 7 Q Right, so I sent Mr. Johnson an 8 e-mail on the 20th because I wasn't sure why -- 9 DR. MARIN: Dr. Varughese, it's a 10 back to the question concept. 11 The way it works is you ask him a 12 question and he responds to it, this is 13 not the forum for you to explain text 14 inside of your -- 15 DR. LEITER: If you have no 16 questions for him, perhaps you want to 17 move on so you can present your case. 18 Q So according to the 19 institutional policy Dr. Firpa is the director 20 of educational activities, what authority does 21 he have to tell me that I should not come to 22 work? 23 He's not a program director, 24 what is his role in that? 25 A I mean to go back to the e-mail</p>

<p style="text-align: right;">Page 234</p> <p>1 LEENA VARUGHESE 2 that we looked at just a few minutes ago, both 3 Dr. Firpa and Dr. Lento have responsibilities 4 relating to the residency program. 5 One is officially called a 6 program director, whether we are dealing with 7 the ACGME, but that doesn't mean that that is 8 the sole person who has any authority over 9 residency training at the institution.</p> <p>10 DR. WEINFELD: So, the answer is 11 that Dr. Firpa does have that authority?</p> <p>12 THE WITNESS: Yeah, we consider 13 him to be in the program leadership.</p> <p>14 DR. WEINFELD: That was the 15 question, okay.</p> <p>16 Q In terms of the policies that 17 the Department has instituted as of August 18 15th, I believe, that was, is that the date 19 that we are -- it was supposed to be 20 instituted?</p> <p>21 A It's not a policy.</p> <p>22 Q I'm talking about the new 23 departmental policies.</p> <p>24 A I can't really speak to that.</p> <p>25 DR. WEINFELD: She's referring to</p>	<p style="text-align: right;">Page 236</p> <p>1 LEENA VARUGHESE 2 DR. WEINFELD: Can we strike this 3 because there is no question. 4 You have to go somewhere with this. 5 DR. CORDONE-CARDO: As the Chair 6 I presented in many occasions the line 7 of reporting and everybody knew and I 8 had various special meetings with all of 9 the residents about the roles of Dr. 10 Firpa. 11 That was very clear to everybody. 12 DR. WEINFELD: Is the question, 13 Dr. Varughese, maybe I can clarify this, 14 is your question who makes Department 15 policy, is that what you are trying to 16 ask? 17 DR. VARUGHESE: Yeah, I'm asking 18 Mr. Johnson, yes. 19 DR. MARIN: That's not a question 20 for him. 21 DR. WEINFELD: I don't know 22 that's a question, but I think it was 23 answered. 24 DR. VARUGHESE: Okay. 25 Q Are you aware that Dr. Firpa</p>
<p style="text-align: right;">Page 235</p> <p>1 LEENA VARUGHESE 2 item 17 in the small book. 3 DR. BRONHEIM: I don't think you 4 know that. 5 DR. WEINFELD: So what's your 6 question. 7 DR. MARIN: It's not relevant to 8 him. 9 Q So, according to the 10 institution's policy, I mean who -- did the GME 11 make up these policies? Would made these 12 policies?</p> <p>13 How were these, not -- I 14 understand the ACGME came here and inspected 15 you have to take some action to correct that, 16 but --</p> <p>17 DR. WEINFELD: Ask the question. 18 Q Who can -- how does this policy, 19 I thought according to the hospital's house 20 staff policy manual it's the Chairman who has 21 to --</p> <p>22 DR. WEINFELD: What's your 23 question? 24 DR. VARUGHESE: Is it even like 25 that the residents have to --</p>	<p style="text-align: right;">Page 237</p> <p>1 LEENA VARUGHESE 2 indicated to me that he was a program director 3 at some point? 4 A I was no the aware of that. 5 DR. WEINFELD: Any other 6 questions for Mr. Johnson? 7 Q Yes. 8 You said that you referred me to 9 the physician wellness committee on what, 10 Friday? 11 A On that Friday I asked Dr. 12 Hughes to contact you. 13 Q Why did you ask Dr. Hughes to 14 contact me? 15 A Because the previous day the 16 program informed us that you could have a 17 serious medical condition that would warrant an 18 assessment by physician wellness. 19 Q So the Department asked you to 20 contact -- 21 A No. 22 DR. VARUGHESE: All right, thank 23 you. 24 DR. WEINFELD: Thank you, very 25 much.</p>

<p style="text-align: right;">Page 238</p> <p>1 LEENA VARUGHESE 2 DR. WEINFELD: Is the Department 3 done? 4 DR. FIRPA: Two more witnesses. 5 6 A R T H U R F I G U R, called as a 7 witness, having been first duly sworn by 8 the Notary Public, was examined and 9 testified as follows: 10 11 DIRECT EXAMINATION BY DR. FIRPA: 12 13 MR. MacDONALD: Let's proceed. 14 Q Who is your employer, 15 Dr. Figure? 16 A The Mount Sinai Center Hospital. 17 Q What is your job title? 18 A I am the Associate Medical 19 Director of the Mount Sinai Hospital. 20 Q What are your job duties in that 21 capacity? 22 A Multiple, I do investigations of 23 certain kinds of quality improvement, quality 24 issues, I also Chair the investigative arm of 25 the physicians wellness committee.</p>	<p style="text-align: right;">Page 240</p> <p>1 LEENA VARUGHESE 2 When it's drug abuse issue, then 3 they are automatically suspended and referred 4 to CPH of the medical society for treatment. 5 Q When was Dr. Varughese' first 6 referred to the Committee? 7 A I think she was first referred 8 in January of this year. 9 Q Why was she referred to the 10 committee? 11 A Dr. Pessan called me to say that 12 she had -- Dr. Pessan became the interim Chair 13 of the Department of Pathology and she referred 14 Dr. Varughese to us because one, she was 15 insubordinate to Dr. Pessan, two she had an 16 altercation with one of the Chief Residents, 17 that she was often late for working and that 18 she harassed other residents. 19 And those were the reasons she 20 gave. 21 Q Did you recall her ever 22 resisting going to see psychiatrists? 23 A Okay, well, before we get to 24 that, we went up to the Department to see what 25 was in her folder as far as attending notes and</p>
<p style="text-align: right;">Page 239</p> <p>1 LEENA VARUGHESE 2 I sit on a variety of quality 3 assurance committees, I try and get Chief 4 Residents to participate in the various 5 committees of the hospital. 6 I still go to some of the 7 meetings of the division of hematology because 8 that's where I was before getting the 9 administrative work. 10 Q What is your role in the 11 physician wellness committee? 12 A When physicians are referred to 13 us for evaluation, we try and interview as many 14 people who have had firsthand experience with 15 the physician so we can understand the issues, 16 we then interview the physician to get his or 17 her side of the story and the reason for the 18 referral. 19 We obtain toxicology screens, 20 it's almost mandatory, we may refer out for 21 outside evaluations, whether it's a vision 22 problem to an ophthalmologist, if we feel it's 23 behavioral issues or professional issues we 24 refer them out for evaluation by a 25 psychiatrist.</p>	<p style="text-align: right;">Page 241</p> <p>1 LEENA VARUGHESE 2 so on about the behavior, we did find e-mails 3 but at the time there were other issues in the 4 Department, they were GME issues, Dr. Schiller 5 had retired, they were searching for a new 6 Chair. 7 So to try and find the 8 documentation backing up that she needed 9 physician wellness rather than discipline for 10 being insubordinate to a Chair, I made the 11 decision in my other hat as Associate Medical 12 Director to interview people along with Paul 13 Johnson to see first of all would it be 14 warranted, and if so, then we would say she 15 should come to us, and we agreed that the 16 referral was indicated and then it took a long 17 time to convince her to come to a meeting 18 between Dr. Hughes, Leena and myself. 19 Q What about the referral to the 20 physician wellness committee in September of 21 this year? 22 A I was away in September, Dr. 23 Hughes did call me to say that Leena had called 24 him because she needed a physician who could 25 give her backup that she needed a leave of</p>

<p style="text-align: right;">Page 242</p> <p>1 LEENA VARUGHESE 2 absence because of illness. 3 That's all he was able to tell 4 me and he informed her that's not the function 5 of the physician wellness. 6 Our function is if we feel there 7 is an issue that needs to be addressed, that we 8 report people to the appropriate therapists for 9 therapy, but we don't refer to mandate or to 10 confirm that somebody needed a leave of 11 absence.</p> <p>Q Was there anything else that the wellness committee could have done or other remediation measures the Committee could have taken to help Dr. Varughese?</p> <p>A Yes, but at this point when Dr. Cordone-Cardo and you came in we had a meeting in your office where I did voice that based on our handling of the situation earlier that really the next more appropriate step would be an increase in disciplinary action.</p> <p>You guys felt, appropriately, that you were new, you wanted to give her every opportunity to succeed and to finish the program, and that you would start a fresh as</p>	<p style="text-align: right;">Page 244</p> <p>1 LEENA VARUGHESE 2 I'm always concerned about self-medicating by 3 physicians. 4 And we felt if I confronted her 5 with that, plus having to sign the contract 6 which we normally have physicians sign, that 7 would negate everything you people were doing, 8 and I sort of washed my hands of it and hoped 9 that you were able to succeed.</p> <p>DR. BRONHEIM: When was this, Dr. Figur?</p> <p>THE WITNESS: I don't know when our meeting was, but shortly after they arrived, so whether it was September, the exact date I can't remember.</p> <p>Q Do you remember as we continued on that strategy and time moved on and things got really worse and worse, about September we consulted with you or we shared with you our concerns and our decision about possibly terminating her, did you feel at that time that there was any -- something else that could have been done to help her in any way?</p> <p>A My -- our feeling at the Committee was that we have tried everything we</p>
<p style="text-align: right;">Page 243</p> <p>1 LEENA VARUGHESE 2 new persons, not related to any other 3 experiences she might have had in the past and 4 would be willing to start again. 5 So, when Dr. Hughes and I 6 discussed this, knowing that she resented 7 authority, that she would resent referral to a 8 therapist, that she would resent having 9 toxicology screens which we deemed were 10 necessary because her behavior was 11 unpredictable, she would be late, she would not 12 finish her work, so to me those were signs of 13 possible impairment.</p> <p>The toxicology screen that she had at the original meeting with us was negative, but she wanted to drink an excessive amount of water.</p> <p>When I told her no, I took her over and the nurse at employees health would also refuse to give her more water and she admitted that she is on medications, Ambien and dexadryl and possibly Aderol, I would then be very concerned and would mandate that she give us a prescription from her current treating people who gave her these medications because</p>	<p style="text-align: right;">Page 245</p> <p>1 LEENA VARUGHESE 2 could do to help her and that if you are 3 terminating her it's very hard for us to sign 4 an agreement because she'll no longer be here, 5 that she needs to follow the directions of the 6 the Committee, sign HIPPA consent that we can 7 contact the treating therapist and the 8 therapist would have been somebody, an expert 9 in anger management, unless we found that drugs 10 became an issue, and based on her lack of 11 cooperation in the past, there was no need for 12 us to proceed.</p> <p>DR. FIRPA: Thank you, I have no further questions.</p> <p>DR. WEINFELD: Dr. Varughese.</p> <p>CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>Q You mentioned that you met with Dr. Cordone-Cardo when you first arrived at the hospital?</p> <p>A Yes. Well, not when he first arrived, at a meeting when you were brought up for discussion.</p> <p>Q So when was that?</p>

<p style="text-align: right;">Page 246</p> <p>1 LEENA VARUGHESE 2 A I can't recall the date. 3 Q I feel like that's relevant, was 4 it in May, was it in April? 5 A No, no, they weren't here. 6 DR. MARIN: He says he doesn't 7 recall the date. That's the answer. 8 A I don't recall the date, it was 9 after their arrival. Maybe a month after their 10 arrival when they became educational director 11 and Chairman of the Department. 12 Q So it was with both Dr. Firpa 13 and with Dr. Cordone-Cardo? 14 A They were both in the room, yes. 15 Q So that was probably you started 16 on -- may I address Dr. Firpa at this point? 17 DR. MARIN: Your questions are to 18 Dr. Figur You arrived on July 1st? 19 DR. FIRPA: Yes. 20 DR. WEINFELD: What's the 21 question? 22 DR. BRONHEIM: The questions are 23 to Dr. Figur. 24 Q So my questions are to Dr. Figur 25 now.</p>	<p style="text-align: right;">Page 248</p> <p>1 LEENA VARUGHESE 2 Q So you were no longer involved 3 after that meeting. 4 Well, I just want to inform you 5 on July 15th Dr. Cordone-Cardo -- 6 DR. MARIN: Dr. Varughese, this 7 is not the time to inform, your job is 8 to ask the question. 9 DR. VARUGHES: They gave me a 10 disciplinary final warning letter. 11 DR. MARIN: Ask questions. 12 Q So, are you aware that I met 13 with Dr. Cordone-Cardo, Dr. Lento and Mr. 14 Castaldi on May 4th? 15 A No. 16 Q Well, they insisted I write a 17 new reflection on May 4th. 18 DR. MARIN: Go back to what I 19 just said to you, questions. 20 He said no; next question. 21 DR. VARUGHES: Okay, sir, all 22 right. 23 A I heard, if you are asking that, 24 I heard after the fact that yes, they felt you 25 did not respond to the academic advisement and</p>
<p style="text-align: right;">Page 247</p> <p>1 LEENA VARUGHESE 2 And so you advised there should 3 be more disciplinary action? 4 A Yes. 5 Q As opposed to -- 6 A Yes. They didn't take my 7 advice. 8 Q They didn't take your advice? 9 A No, they gave you another 10 chance. 11 They wanted to start fresh, they 12 told you they would start fresh, they would 13 start with you from the beginning and -- 14 Q Well, what would you consider 15 starting fresh? 16 Would you consider me being 17 placed on disciplinary action starting fresh? 18 A I'm not aware of any of the 19 disciplinary actions they took, I'm aware of 20 the academic advisement that you got earlier, 21 but after they arrived and they made the 22 decision that they were going to start fresh, 23 they were going to give you the chance to start 24 anew, wipe out the past slate, I was no longer 25 involved.</p>	<p style="text-align: right;">Page 249</p> <p>1 LEENA VARUGHESE 2 that they asked you to rewrite your reflection 3 after reading a certain book, which I don't 4 know what it was, and you didn't fulfill that 5 academic advisement. 6 Q So, Dr. Pessan who was part of 7 the Department reached out to you? 8 A Yes. When she was acting Chair. 9 Q When was she acting Chair, in 10 January? 11 A I think in January. 12 Q But you were aware there was a 13 back story to why she may have asked you? 14 A I sort of outlined the five 15 reasons, you were insubordinate to her, which 16 in my opinion is really not a physician 17 wellness issue, which is really a disciplinary 18 issue and should be handled immediately by the 19 Chair, because as an interim Chair I presume 20 she felt she didn't want to do it, but then 21 there were other issues about your lateness, 22 your not being a team player, your not 23 cooperating with the other residents, your 24 harassing them and you have been demeaning a 25 variety of the staff in the Pathology</p>

<p style="text-align: right;">Page 250</p> <p>1 LEENA VARUGHESE 2 Department, and that's a physician wellness 3 issue.</p> <p>4 Q How did she say that I was 5 insubordinate?</p> <p>6 A I didn't ask.</p> <p>7 Q How many altercations did she 8 say there were?</p> <p>9 A There was one altercation.</p> <p>10 Q And she said that I was 11 responsible?</p> <p>12 A She said -- she said there was 13 an altercation, she didn't put the blame 14 anywhere, there was no specific write up and 15 that was one of the reasons Mr. Johnson and I 16 interviewed members of the Department, so we 17 could figure out did it occur, how did it 18 occur, what started it, and who could have been 19 responsible.</p> <p>20 Q How often was I late?</p> <p>21 DR. WEINFELD: It's not a 22 question for Dr. Figur.</p> <p>23 A I didn't ask.</p> <p>24 DR. WEINFELD: He wasn't asked to 25 keep track of your lateness.</p>	<p style="text-align: right;">Page 252</p> <p>1 LEENA VARUGHESE 2 DR. MARIN: Let's get back to the 3 questions.</p> <p>4 Q What did you -- what was your 5 opinion of that?</p> <p>6 A Well, there was no problem and 7 Dr. Lento told me you would be unable to come 8 because you were at another rotation, and that 9 when you were available to come and be here 10 that then you would appear.</p> <p>11 Q Right so this is a physician 12 wellness committee issue, it's supposed to be a 13 confidential issue, but you are telling --</p> <p>14 A No, your program director would 15 know about this because the Chairman is the one 16 who referred you, and certainly the program 17 director needs to know what's going on with 18 residents in the program.</p> <p>19 Q Right, after an interview if 20 there was an issue that they needed to address 21 or --</p> <p>22 A No, you were referred to us, you 23 did not come. I had to be blunt with you 24 because based on all the other interviews we 25 have had with other people before I reached out</p>
<p style="text-align: right;">Page 251</p> <p>1 LEENA VARUGHESE</p> <p>2 Q So, you said you were contacted 3 in January but you did not contact me until?</p> <p>4 A The policy of the Committee, as 5 I outlined, is to get firsthand information, 6 not second or thirdhand information from people 7 who have had experience with the physician's 8 behavior so that we don't get filtered 9 information.</p> <p>10 So it takes a while to gather 11 that data and once we were ready with that 12 information, it took a while to get to you come 13 to meet with us.</p> <p>14 Q So you basically e-mailed me -- 15 my Exhibit 40 in the big book.</p> <p>16 DR. WEINFELD: Exhibit 40 in the 17 big book.</p> <p>18 Q So you e-mailed me on February 19 28th and --</p> <p>20 DR. WEINFELD: Is there a 21 question?</p> <p>22 Q And said that physician wellness 23 would -- but, in fact Dr. Lento responded for 24 me as opposed to me actually responding to this 25 particular request saying that I wasn't --</p>	<p style="text-align: right;">Page 253</p> <p>1 LEENA VARUGHESE 2 to you, was that you needed to be very blunt 3 with Leena, otherwise she's not going to hear 4 you.</p> <p>5 So I was very blunt to make 6 certain that you understood that if you don't 7 come you can be suspended and you can be 8 terminated, and that's in the procedures and 9 policies approved by the Medical Board which 10 you can find online.</p> <p>11 So I didn't want you to say to 12 me you never told me the outcome if I don't 13 show up.</p> <p>14 Q So, anyway I met with you and 15 Dr. Hughes several times and eventually you 16 asked that I take the toxicology screening 17 test.</p> <p>18 A Right.</p> <p>19 Q So I took the test, did I try 20 not to take the test?</p> <p>21 DR. WEINFELD: What was the 22 question?</p> <p>23 Q I mean I took the test, it was 24 negative, was it?</p> <p>25 A Yes, the test was negative.</p>

<p style="text-align: right;">Page 254</p> <p>1 LEENA VARUGHESE 2 Q Okay, good. 3 A But as I said before, there were 4 issues before you took the test. 5 DR. WEINFELD: We heard. 6 DR. LEITER: Is that all? 7 DR. VARUGHESE: No. 8 Q So, you wanted me to meet with 9 Dr. Fursch eventually? 10 A Yes. 11 Q But I had requested that I could 12 follow up with my therapist? 13 A Yes we wanted an independent 14 opinion, which you thought was your therapist. 15 Q Or I said somebody at the 16 Medical Center of New York? 17 A Yes. 18 Q That was my other option? 19 A Right. 20 Q But I wasn't given that option? 21 A No, you were not given that 22 option because at our discretion it needed to 23 be someone from here based on the performance 24 issues in the past. 25 Q Do you recall telling me that</p>	<p style="text-align: right;">Page 256</p> <p>1 LEENA VARUGHESE 2 that. 3 But at this point in the 4 proceedings we can't mandate whom you should go 5 to and so from my point of view, it's moot. 6 Now, if you do go to a therapist 7 I will be happy to let that therapist know 8 exactly some of the issues that came up in the 9 workplace that you need to address to be 10 successful in the future, and that's our 11 concern, your future. 12 And protecting the patients. 13 Q So far we have discussed 14 professionalism as being the issue here. 15 What do you mean protect the 16 patients? 17 A Mount Sinai is fortunate that in 18 the Department of Pathology although the 19 residents do the grossing and have a great 20 responsibility of cutting margins on specimens, 21 that the attending is the final arbiter of what 22 report goes out and when. 23 So if you don't do your work 24 diligently and you don't do a proper margin cut 25 on a breast specimen, or any place else, we can</p>
<p style="text-align: right;">Page 255</p> <p>1 LEENA VARUGHESE 2 you will give me a document? 3 A I don't recall, but as I say, I 4 don't recall, we do have a communication from 5 Dr. Fursch which is not here because it was 6 confidential to the Committee and it should 7 remain confidential with the Committee. 8 Once we decided that we are not 9 going to have you sign a contract and refer you 10 out and monitor you periodically, the 11 recommendations that we got became moot because 12 we weren't going to follow them. 13 Q Don't you think it's odd that 14 I'm going to see this therapist for physician 15 wellness committee and she won't give me any 16 follow-up summary? 17 A I didn't know you were going to 18 see any therapist. 19 Q And I'm not followed up with 20 that particular -- 21 A I have no objection after the 22 disciplinary action is fulfilled, if Dr. Fursch 23 has no objection, of telling you what her 24 recommendations were. 25 And I agree, you need to know</p>	<p style="text-align: right;">Page 257</p> <p>1 LEENA VARUGHESE 2 send out a wrong report. 3 That became an issue. 4 Yes, the attending will read the 5 slides that are available, but the attending is 6 not there to watch every time a resident cuts 7 the slides. 8 And the information we got is 9 some days you were perfect and you did 10 extremely well and without rhyme or reason the 11 next time they came around you had no idea what 12 you were doing and had to ask the same 13 questions of the same people who had just gone 14 through this material with you a week ago, and 15 it's like starting in the beginning. 16 And that's what I mean by 17 protecting our patients. 18 And that was one of the reasons 19 we needed the toxicology screen, that when you 20 were educated to something you couldn't retain 21 it. 22 Not my opinion, those were the 23 opinions of people we interviewed. 24 DR. MARIN: Questions. 25 DR. VARUGHESE: For the record,</p>

<p style="text-align: right;">Page 258</p> <p>1 LEENA VARUGHESE 2 that's not true. 3 DR. WEINFELD: A question, a 4 question. 5 Q It seems that you have been 6 misled. 7 DR. WEINFELD: Do you have any 8 further questions before I excuse him? 9 DR. VARUGHESE: No. 10 DR. WEINFELD: Do you have any 11 further questions, not commentary, 12 questions? 13 Q In our interactions, what's your 14 opinion, am I -- do I need anger management 15 or -- 16 A Based on the interviews of other 17 people, yes. 18 Q Well -- 19 A You were never angry with me, 20 except for being reluctant to come and needing 21 a lot of urging and what you would consider 22 threatening, what I considered informational, 23 no, you've never been anything but courteous 24 with us. 25 DR. VARUGHESE: All right, so one</p>	<p style="text-align: right;">Page 260</p> <p>1 LEENA VARUGHESE 2 e-mailed you, please keep that appointment. 3 I think you may then have said 4 something about your grandfather dying, it may 5 be in your e-mail trail, I certainly don't have 6 that. 7 Q But I wasn't advised to take a 8 day off. 9 DR. WEINFELD: Thank you, Dr. 10 Figur, you are excused. 11 Thanks very much. 12 MR. MacDONALD: Is that the last 13 witness? 14 DR. FIRPA: One more. 15 C A R L O S C O R D O N - C A R D O , 16 called as a witness, having been first 17 duly sworn by the Notary Public, was 18 examined and testified as follows. 19 EXAMINATION BY DR. FIRPA: 20 21 Q Good evening, Dr. Cordone-Cardo. 22 Who is your employer? 23 A Mount Sinai School of Medicine.</p>
<p style="text-align: right;">Page 259</p> <p>1 LEENA VARUGHESE 2 more thing. 3 Q With Dr. Fursch, I had been a 4 little resistant to going to that particular 5 meeting. 6 A Yes. 7 Q But I did inform you my 8 grandfather had just passed away that week? 9 A Right. 10 DR. WEINFELD: Is there a 11 question for Dr. Figur? 12 Q Are you aware there is a 13 hospital policy where you can take up to three 14 condolence days? 15 DR. WEINFELD: Who was it? 16 DR. VARUGHESE: My grandfather? 17 A That's not my area of expertise, 18 I am not aware of it. 19 DR. WEINFELD: Ask him a hospital 20 policy question, that's not for Dr. 21 Figur. 22 Q You requested that I go despite 23 the fact -- 24 A You had an appointment which you 25 canceled. Dr. Fursch notified me, so I</p>	<p style="text-align: right;">Page 261</p> <p>1 LEENA VARUGHESE 2 Q What is your job title? 3 A I am the Chair of Pathology. 4 Q What are your duties as Chair of 5 Pathology? 6 A I am to oversight both the 7 service, educational and research operations of 8 the Department. 9 Q When did you become Chair of 10 Mount Sinai? 11 A April 1st. 12 Q When did you first meet with Dr. 13 Varughese? 14 A I met first with Dr. Varughese 15 on May 3rd. 16 Q What happened at that meeting? 17 A I was informed as I arrived 18 after talking to our leadership that there were 19 some issues with Dr. Varughese including a 20 meeting on April 26th describing the lack of 21 responses to repetitive e-mails from several of 22 the faculties. 23 So as a new Chair I wanted to 24 address that immediately and I wanted to make 25 sure that Dr. Varughese also had the chance to</p>

<p style="text-align: right;">Page 262</p> <p>1 LEENA VARUGHESE 2 meet with me much before I met with some of the 3 faculty.</p> <p>Q Did you discuss with her anything regarding her academic advisement?</p> <p>A I did. I went over the past academic advisement.</p> <p>I realized that she was asked in December to put forward a statement on events on professionalism, that she was supposed to hand in a matter of four weeks upon agreement of herself with the Committee.</p> <p>That report was not submitted until March 30th, two days before my arrival and some three months later of what she was required.</p> <p>So I wanted to understand why, but at the same time I wanted to give Dr. Varughese the chance to meet me, give Dr. Varughese the chance of starting fresh and making very clear that what has happened in the Department in the past was not going to happen now.</p> <p>We strive for integrity, we strive to not disruption of operations, we</p>	<p style="text-align: right;">Page 264</p> <p>1 LEENA VARUGHESE 2 And she said I need a couple of 3 weeks, a month. 4 Do you have the copy of the book? 6 No, we will buy the copy of the book. I am going find out and this is how we started on that first meeting.</p> <p>Q What happened in the follow-up meeting to that initial agreement?</p> <p>A Well, we met on May 24th because nothing was being submitted, I wasn't sure if the report was being prepared.</p> <p>I didn't want the same report of the past which is at the end of day what we received, and I wanted to make sure that she had access also to the book, at which point I asked together with Dr. Lento do you recall the author of the book?</p> <p>Which Dr. Varughese said that she didn't recall that the book has been written by Stephen Pisan on practice excellence and it's a manual of how to conduct business in our business.</p> <p>So we advised her that this was</p>
<p style="text-align: right;">Page 263</p> <p>1 LEENA VARUGHESE 2 strive to professionalism, I also asked Dr. Varughese to make sure that she had a copy of the book that she was recommended, if not the Department would buy that book and I tried to start a new relationship and at that meeting we did meet with the person who was at that time the acting administrator, Mr. Castaldi.</p> <p>The interview was not easy, she was quite rude, she never offered an explanation for why she delayed three months and why all of a sudden a day before I started the report appears, which wasn't the report that was asked for, it was essentially a recount of what has happened.</p> <p>I said to her look, I read it, and this is not what you were asked, you were asked to write a report on professionalism, how you should act upon being a pathologist, being fair to your peers and being respectful, the lack of integrity that has been demonstrated in the past, it's not going to happen on my watch, but let's start fresh.</p> <p>So how long do you need to write a new report?</p>	<p style="text-align: right;">Page 265</p> <p>1 LEENA VARUGHESE 2 not what we were expecting and conveyed the message that we wanted and we expected more from her.</p> <p>Q What was her general behavior during that interaction with you?</p> <p>A We met again at which point the book had been written -- at least she brought a copy of the book, the report that we requested was essentially the same a recount of what had happened, weeks after what we expected and at that meeting essentially when I started trying to put it in perspective, I said well you have a copy of the book, have you read it?</p> <p>She essentially threw the book, not essentially, to myself, but I started saying what's happening? You threw the book, Leena, from one side of the table to the other, that's the fact.</p> <p>And I said look, I mean, what's happening here?</p> <p>Are you reading that, this is what you are learning and she started escalating, trying to go back to the same story, oh, because, so it was so difficult in</p>

<p style="text-align: center;">Page 266</p> <p>1 LEENA VARUGHESE 2 that I saw that we were not going anywhere. 3 So I end the meeting short 4 thinking that she was going to have time to 5 reconsider the matters and inviting her back.</p> <p>Q How did you come to the conclusion of issuing a final warning?</p> <p>A The series of repetitive incidents the lack of integrity, not responding to e-mails, not going to lectures and sitting in the Department, together with the lack of professionalism that she was displaying to all of our faculty, as well as the residents and the fellows, brought up as to a -- brought us to a point that we thought the disruption of operations was so large that besides the final warning and besides that final warning we were going to go ahead.</p> <p>And after realizing that she was in the office of senior administrator going over important potential documents and the lack of integrity proven throughout this period, I took, together with academic administration and the senior leadership of the Department, the next step of presenting her with a letter of</p>	<p style="text-align: center;">Page 268</p> <p>1 LEENA VARUGHESE 2 operations were there, and that we couldn't come to have professionalism and respect as it happens at moments that are critical like this one in our job, which is an important job, we are the second Department in the country in volume and we cannot afford any mistakes at any point for our patients.</p> <p>DR. FIRPA: I have no other questions.</p> <p>DR. WEINFELD: Dr. Varughese.</p> <p>13 CROSS-EXAMINATION BY DR. VARUGHESE:</p> <p>Q How many times have you met me? A I met you at least three different times, on the first one being on May 3rd, just a month after I arrived here, but having e-mails with you since mid-April. One of them on April 26th.</p> <p>Q April 26th, is that an exhibit? A I believe, yes, but anyway the first meeting was on May 3rd but we scheduled that meeting for May 3rd, of course.</p> <p>DR. BRONHEIM: When did you start</p>
<p style="text-align: center;">Page 267</p> <p>1 LEENA VARUGHESE 2 suspension and termination. 3 And I told her that at some point we were trying to avoid it, but that at some point we need to do the next steps and I asked her to review the letter to make sure that she read the final paragraph on the rights that she had, that she has definitely used today, and we conveyed the message that she was going to be escorted outside by security, but also that we have requested that -- I specifically had requested the presence of professional help in order if she wanted to have a member of our psychology psychiatry team being there for her to support that difficult moment and that I was concerned, I was concerned for her.</p> <p>Q Did you feel at that time that you had exhausted all the opportunities to give her an opportunity to redeem herself?</p> <p>A At this point I thought that there is nothing arbitrary and capricious on the issues we were taking, we had much documented the fact that the lack of integrity was there repetitively, that the disruption of</p>	<p style="text-align: center;">Page 269</p> <p>1 LEENA VARUGHESE 2 here? 3 THE WITNESS: April 1st. 4 DR. BRONHEIM: That's pretty quick.</p> <p>Q So how many times have I mishandled a surgical pathology specimen? A On several occasions there have been reports of cases being delayed and in several cases.</p> <p>Q I mean mishandled or where a patient would suffer? A I don't have this information.</p> <p>Q Did you say that my self reflection exercise did not meet the requirements of the academic advisement? A No, it did not because we went over -- you essentially put a recount of a story that we wanted you to be further away and we asked you to produce something on professionalism.</p> <p>Q Okay. Are you aware of what the academic advisement says? A Yes.</p>

<p style="text-align: right;">Page 270</p> <p>1 LEENA VARUGHESE 2 Q I would like to refer to Exhibit 3 on the Department. 4 DR. WEINFELD: Department Exhibit 5 3, okay. 6 Q It's on Page 19, last point, it says, "Self reflection exercise to be handed into me within four weeks. You are expected to write down your account of the situation and describe how you could have approached things in a better fashion, including commentary on physician professionalism and explore it in this circumstance." 14 I think my first reflection 15 which is Exhibit 2 in my list, I think that 16 particular reflection actually does address all 17 points of the academic advisement.</p> <p>18 A So also in this -- 19 DR. WEINFELD: So what's the 20 question? 21 Q Do you agree that it addresses 22 it or not? 23 A We don't, and as a matter of 24 fact, if you recall, to the first line on this 25 very same page it says that this needs to be</p>	<p style="text-align: right;">Page 272</p> <p>1 LEENA VARUGHESE 2 A What's the question? 3 Q They never got back to me about the findings. 4 DR. MARIN: I think that's to be 5 dealt with, he's not part of that, so 6 your question should pertain -- 7 DR. VARUGHESE: I am going to 8 explain to him that. 9 DR. WEINFELD: Right now he's a 10 witness. You have to ask him questions. 11 DR. BRONHEIM: You can tell us 12 all of this in your discussion. 13 Q So, at that meeting exactly to 14 what extent were you aware of this particular 15 reflection that I had written, did you read it 16 already? 17 A Yes, I did. 18 Q Okay, good. Did Mr. Castaldi 19 also read the -- 20 A Yes, he did. We read it 21 actually also at the end together before we met 22 you, because we were surprised at the points of 23 professionalism from both of our parts didn't 24 come up, it was mainly a recount of some of the</p>
<p style="text-align: right;">Page 271</p> <p>1 LEENA VARUGHESE 2 done in three or four weeks and that was on 3 March 30th and you were supposed to handle it 4 in January 24th. 5 Q Are you aware that I filed a 6 grievance with the Human Resources Department 7 of this hospital regarding this particular 8 action taken against me, the academic 9 advisement? 10 A It was before my time and when I 11 arrived it's for the reason I wanted to start 12 fresh with you again. 13 Q Would it be fair, understandable 14 why it was delayed? 15 I mean do you think there may be 16 other reasons why it was delayed, not just 17 my -- 18 A As an academic I can assure you 19 I can understand a delay of one week, two 20 weeks, three weeks, but in something that is to 21 be in a month to wait three months and wait one 22 day before I started, I don't see the excuse in 23 that. 24 Q Well, I filed a grievance with 25 the Human Resources Department.</p>	<p style="text-align: right;">Page 273</p> <p>1 LEENA VARUGHESE 2 events. 3 Q Do you remember Mr. Costaldi was 4 confused as to what the events were? 5 A I don't recall. 6 Q I mean you are saying that -- 7 DR. MARIN: I don't recall. 8 He answered your question. 9 A I recall him being very sharp, I 10 don't recall him being confused. 11 Q He seemed confused. 12 So then I met with you again two 13 weeks later, no, three weeks later, and you 14 said I threw a book at you? 15 A Yes. 16 DR. WEINFELD: Is there a 17 question? 18 Q Describe how I threw the book at 19 you? 20 A I said did you read the book? 21 What do you mean? This book? Yes, I read it 22 and you through it, if you don't say -- how you 23 call that? 24 You didn't get up and say 25 well --</p>

<p style="text-align: right;">Page 274</p> <p>1 LEENA VARUGHESE 2 Q That's not what happened, I just 3 put the book down like this. 4 DR. MARIN: You asked him to tell 5 you what his reflection is. He's given 6 it to us. 7 DR. VARUGHESE: I am just saying 8 I just placed it on his desk. If I 9 threw it at him, it wasn't my intent to 10 hurt him. I didn't do that. 11 DR. MARIN: Questions and 12 answers. 13 Q So I gave you the second 14 reflection, you read it and you said that you 15 needed to consult the hospital's legal? 16 A It was very similar to the same 17 recounts, I thought that you were not following 18 the kind of advice that you were given by 19 several of the members of the Department and we 20 thought that we needed to consult both with our 21 colleagues in the Department and outside of the 22 Department. 23 Q So you wanted to consult the 24 hospital's legal department, okay. 25 So here is the thing --</p>	<p style="text-align: right;">Page 276</p> <p>1 LEENA VARUGHESE 2 DR. MARIN: This is not a time 3 for a statement. 4 DR. BRONHEIM: You will have an 5 opportunity to make a statement. 6 Q Did you advise me as to what 7 should go into the new reflection? 8 A Of course we did, and we got the 9 book for you and we read the book as well and 10 of course I was I expected to know what was in 11 the book, we said that we could buy it for you, 12 you said you were going to get it. 13 Q Did you buy me the book? 14 A You said that you had it 15 yourself, the book, and you went to the library 16 to pick it up. 17 Q It's not in the library, it's 18 not available. 19 DR. BRONHEIM: Did you obtain the 20 book? 21 DR. VARUGHESE: Yes, I have the 22 book. 23 Q You did e-mail me and you said 24 future constructive -- 25 DR. LEITER: If you don't have a</p>
<p style="text-align: right;">Page 275</p> <p>1 LEENA VARUGHESE 2 DR. MARIN: Hold it, questions. 3 Q Question, question. 4 So, you got the reflection, you 5 said that you were going to consult -- 6 DR. MARIN: Is there a question? 7 Q Do you recall me e-mailing you, 8 or I actually e-mailed Dr. Lento to ask him 9 exactly what should go into the second 10 reflection. 11 He never responded to me, 12 then -- 13 DR. MARIN: Dr. Varughese you are 14 supposed to ask him questions. 15 Q You responded to me at some 16 point and -- 17 DR. MARIN: We won't continue the 18 proceedings if you can't follow in some 19 sort of pattern that we can help you 20 with. 21 DR. WEINFELD: Take a minute, 22 think about what you want to ask. 23 I think there is a question. 24 DR. VARUGHESE: I just want to 25 make a statement.</p>	<p style="text-align: right;">Page 277</p> <p>1 LEENA VARUGHESE 2 question, you are better off not listing 3 it. 4 Q Well, I asked Dr. Cordone-Cardo 5 for advice, but I did not get adequate response 6 back about what needs -- 7 DR. MARIN: Dr. Varughese, again, 8 you are not asking, you can terminate 9 your questions at this time if there is 10 nothing else, and we can go on to the 11 next witness. 12 DR. VARUGHESE: Okay. 13 DR. MARIN: Thank you. 14 DR. WEINFELD: Thank you. 15 MR. McEVOY: The Department 16 rests. 17 DR. WEINFELD: I would like to 18 move that we take a two minute break 19 because I think people need to answer 20 pages. 21 (At this point in the proceedings 22 there was a recess, after which the 23 hearing continued as follows: 24 DR. WEINFELD: Dr. Varughese, you 25 will have the opportunity to present</p>

<p style="text-align: right;">Page 278</p> <p>1 LEENA VARUGHESE 2 your case, you can make an opening 3 statement, call witnesses and we should 4 proceed; it's getting late. 5 DR. VARUGHESE: So I am just 6 going to read a statement that I 7 prepared to the best of my ability. 8 So, ladies and gentlemen, members 9 of the Board and the Department, and Mr. 10 MacDonald from general counsel, so 11 basically here is the story. 12 So I was placed on academic 13 advisement on December 21 of last year 14 following an altercation with the previous 15 Chief Resident, Samuel McCash where I felt 16 that I was being physically and verbally 17 intimidated, humiliated. 18 This is as per house staff policy 19 manual which is Exhibit 43, some of you 20 may have it. 21 And I believe pages 31 to 35 notes 22 what is considered harassment in this 23 hospital. 24 I have attached my reflection of 25 the event which is sort of details what</p>	<p style="text-align: right;">Page 280</p> <p>1 LEENA VARUGHESE 2 And this is as of when I turned in 3 my reflection which was in March and in 4 April eventually I had to contact Human 5 Resources to find out what their decision 6 was. 7 So basically before the resolution 8 of this incident I had to meet with Dr. 9 Lento on January 18th and I was continued 10 to be on academic advisement at that 11 point. 12 Meanwhile Samuel McCash was not 13 reprimanded at all, and that still stands 14 to my knowledge. 15 So, prior to this there was a 16 previous incident with the Chief Resident 17 where he shouted at me shut up, shut up, 18 shut your mouth, repeatedly in front of my 19 colleagues following a discussion of 20 coverage for an away resident. 21 He wanted to speak to me following 22 this incident on his own during this 23 conversation, he told me that no one liked 24 me, that I would never find a job, no one 25 is teaching me and that I won't be</p>
<p style="text-align: right;">Page 279</p> <p>1 LEENA VARUGHESE 2 happened, but also discusses 3 professionalism and how I would have 4 approached things differently. 5 DR. WEINFELD: Where is that? 6 DR. VARUGHESE: That's Exhibit 2. 7 DR. LEITER: I see it in 3. 8 DR. VARUGHESE: 2 and 3, I was 9 asked to the old reflection, write a new 10 one. 11 At this point I had requested a 12 formal apology from Samuel McCash, as 13 Chief Resident and a mediation regarding 14 this particular incident and there was 15 another incident, so I asked for 16 mediation. 17 None of this had occurred and at 18 that point I was placed on academic 19 advisement, like I mentioned before, so I 20 made an official complaint to Human 21 Resources when action was taken against me 22 Human Resources performed an 23 investigation of the matter but did not 24 contact me to inform what their findings 25 were.</p>	<p style="text-align: right;">Page 281</p> <p>1 LEENA VARUGHESE 2 successful. 3 I believe this behavior constituted 4 an outright hostile work environment for 5 me at that point. 6 So I had sent an e-mail to the 7 leadership of the Department of Pathology 8 to address what had happened to me that 9 morning. 10 And how I considered what Samuel 11 McCash was saying to me to be very hostile 12 in attitude and also very discriminative 13 towards me as a girl, as a woman, because 14 I really don't think he would treat a man 15 like that. 16 So then I also spoke with the 17 program director soon after, he made 18 excuses for Samuel McCash saying sometimes 19 people yell and that there is a place 20 where people to be shouted at and that the 21 bullying situation is that sometimes 22 residents need to be told. 23 He also said that the Department 24 was a dysfunctional Department family and 25 I was then accused of writing a diatribe</p>

<p style="text-align: right;">Page 282</p> <p>1 LEENA VARUGHESE 2 both on evaluation about surgical 3 pathology. 4 Essentially he effectively -- well, 5 he indicated to me that in so many words 6 that my rights won't be protected as long 7 as he believed that I wrote a negative 8 evaluation, and he felt more in line with 9 the Chief Resident who was also his 10 friend. 11 So a lot of excuses were made and I 12 essentially felt like there was no 13 recourse for me to follow up on this 14 particular matter and I just left it at 15 that. 16 That was in September and then 17 following that I served on the ACGME 18 review program to help the program prepare 19 for the ACGME review and I was not asked 20 to present the program to the ACGME for 21 inspection, which is fine, but perhaps my 22 evaluations were included for the ACGME 23 evaluation, I hope so, but I'm not sure 24 about that. 25 But anyway the Department is</p>	<p style="text-align: right;">Page 284</p> <p>1 LEENA VARUGHESE 2 necessitated because of the actions taken 3 against me instead of some acknowledgment 4 and mediation. 5 And what I believe was a rather 6 traumatizing event that occurred to me. 7 The reflection also addressed my 8 involvement in the event, so the 9 reflection does accurately reflect what 10 happened. 11 I e-mailed Dr. Lento soon after the 12 meeting to ask him to please state what 13 your concerns are, and be specific as to 14 what you would like for me to do. 15 I did not receive a response to 16 this e-mail. After review of the 17 reflection written and submitted on March 18 30, 2011 I decided that it accurately 19 reflected with appropriate amount of 20 insight. 21 I met Dr. Lento and Dr. 22 Cordone-Cardo and Mr. Costaldi again on 23 May 24, 2011 and submitted the new 24 reflection. 25 I was prepared to discuss the book</p>
<p style="text-align: right;">Page 283</p> <p>1 LEENA VARUGHESE 2 currently ACGME accredited and that's all 3 wonderful and I'm very happy about that. 4 So moving on, on 4/26/2011 I 5 received an e-mail from Dr. Lento stating 6 that a period of academic advisement had 7 ended. 8 I was then contacted by Basil 9 Ocinto via e-mail to meet Dr. 10 Cordone-Cardo, Lento and Mr. Castaldi and 11 May 3, 2011 so at this meeting Dr. 12 Cordone-Cardo, Dr. Lento and Mr. Costaldi 13 were very confrontational and antagonistic 14 towards me in their attitude and demeanor, 15 they said that they felt that my 16 reflection was not satisfactory in its 17 tone and demonstrated a lack of insight 18 and had to be recast. 19 I calmly stated that the reflection 20 addressed every point as mentioned in the 21 letter of academic advisement and was an 22 accurate portrayal of what had happened to 23 me on the evening of December 8, 2010. 24 The tone of my reflection which I 25 believe is rather defensive was</p>	<p style="text-align: right;">Page 285</p> <p>1 LEENA VARUGHESE 2 on professionalism by Steven Pesan at 3 length, I was not given this opportunity 4 at that point, and that's okay, since in 5 light of all the issues. 6 Basically I respectfully disagree 7 with Dr. Lento and Dr. Cordone-Cardo that 8 my reflections lack insight or 9 professionalism and I demonstrated 10 professionalism and restraint during all 11 of my meetings. 12 So, and of course I have a detailed 13 record of all these meetings, if it comes 14 to having to review that in the future. 15 I have also retained legal counsel 16 following April 20 -- April 2011 to advise 17 me on the matter at hand, and I have also 18 worked with several other lawyers 19 including several consultations to protect 20 myself from further punitive actions that 21 may be taken by the hospital or the 22 Department. 23 So, following my second meeting 24 with Dr. Cordone-Cardo, Dr. Lento and 25 Mr. Costaldi, the law firm that I retained</p>

<p style="text-align: right;">Page 286</p> <p>1 LEENA VARUGHESE 2 at that point sent in a letter to the 3 hospital on June 13, 2011 detailing the 4 reasons why I have retained their 5 services. 6 Which to me is obviously the 7 hostile work environment that I was 8 experiencing at this point. 9 Subsequently after this letter was 10 sent in I was placed on disciplinary 11 action on 7/14 -- on July 15th, sighting 12 my second reflection as being inadequate 13 and demonstrating lack of insight and 14 several other issues that are not true, 15 and that's also in the exhibit. 16 Finally I would like to address the 17 various points that were addressed that 18 were noted in the summary of suspension 19 letter, termination, suspension, 20 termination. 21 So basically there was a concern of 22 duty and professionalism concerning two 23 cytogenetics rotation, I believe we had an 24 opportunity to speak with Dr. Najfeld, so 25 basically my statement in response to that</p>	<p style="text-align: right;">Page 288</p> <p>1 LEENA VARUGHESE 2 And then I believe I was 3 professional and cordial with the staff 4 and Dr. Najfeld at all times. 5 The laboratory staff contacted me 6 several times by e-mail asking me not to 7 come in for very specific reasons, such as 8 being on short staff, short staffing 9 issues and also because their clinical 10 responsibilities that they could not pay 11 attention to my needs in terms of teaching 12 me, what they do. 13 On Thursday August 4, 2011 Dr. 14 Najfeld was contacted by Dr. Firpa to more 15 closely supervise my activities. 16 She wrote an e-mail in response 17 saying she was very busy implementing new 18 equipment during that first week and that 19 she did not have enough time to spend 20 time, that she did not have enough time to 21 spend with me. 22 Following this Dr. Najfeld became 23 more combative and berated me in front of 24 the staff several times, 25 I sometimes used a Blackberry</p>
<p style="text-align: right;">Page 287</p> <p>1 LEENA VARUGHESE 2 particular statement is that clinical 3 pathology rotations including cytogenetic 4 rotations are "light rotations" or 5 resident independent rotations regarding 6 observation and understanding of 7 laboratory tests and most importantly 8 extensive reading. 9 Many residents also use some of 10 this time to prepare for the Board 11 examination. 12 When I began cytogenetics rotation, 13 which is a two week rotation which began 14 on 8/1/2011 and went on to 8/12/2011, I 15 was asked by Dr. Najfeld to read a chapter 16 written by herself in the Molecular 17 Genetic Pathology Book by Dr. Sang. 18 So I performed that task and spent 19 some time reviewing the manuals and worked 20 with the technologist observing how the 21 cytogenetic testing was performed, and 22 reviewed some basic principles of 23 karyotyping during the first week. 24 Please feel free to interview the 25 laboratory staff if that's necessitated.</p>	<p style="text-align: right;">Page 289</p> <p>1 LEENA VARUGHESE 2 device to take notes on research 3 information, Dr. Najfeld took offense at 4 this and I stopped doing that. 5 Dr. Najfeld asked me to give a 6 presentation on CML on Thursday for the 7 following week, on Tuesday, this was 8 Thursday 4/11 and for Tuesday 8/9, 11 on 9 Monday, 8/8/11 which was the beginning of 10 the final week of this rotation I spoke to 11 Dr. Najfeld in the morning to review the 12 rotation requirements for the first time. 13 The day before I was to give my 14 presentation on CML Dr. Najfeld wanted to 15 review the presentation with me. 16 However, she was away for most of 17 the afternoon and gave no indication as to 18 when she would return. 19 I left the Department around 4:00 20 p.m. or so, and e-mailed my presentation 21 to her. 22 I was on my -- on the subway back 23 to my home in Brooklyn, Dr. Najfeld 24 apparently called me and e-mailed me 25 several times, but I was not able to</p>

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<p>1 LEENA VARUGHESE 2 receive a call on the subway and I arrived 3 at home around 5:40 or so, and I called, I 4 tried to return her e-mails. 5 I must also note actually the first 6 week on Friday she wasn't at work, she was 7 working from home, so, in fact, she may 8 have gotten the e-mail on Thursday, but 9 she actually didn't speak to me on Friday 10 because -- and she had to speak to me on 11 Monday because she was working from home 12 on Friday.</p> <p>13 So anyway, going back, when I 14 returned home I noted the e-mail messages 15 and contacted her immediately.</p> <p>16 She said that the presentation was 17 not ready due to my stylistic preferences 18 in discussing the case and certain minor 19 errors.</p> <p>20 I asked her to e-mail me or simply 21 tell me what the issue was, but she wanted 22 me to return to her office.</p> <p>23 It was rather late and it was out 24 of the question that I return from before 25 6:00 from my home in Brooklyn, it takes me</p>	<p>1 LEENA VARUGHESE 2 for CP. It's not a very formal event. 3 So, the presentation was postponed 4 to the next week, the following week the 5 case was discussed at length in 6 conjunction with the hemopath resident who 7 was on the hemopath service who had also 8 needed time to form the case and present 9 as well.</p> <p>10 Overall the presentation was well 11 done and well received, I had attached the 12 presentation, as Exhibit 25, Dr. Najfeld 13 also gave no indication that my 14 performance was unsatisfactory at the end 15 of this rotation.</p> <p>16 I believe I did the best job I 17 could give in the short time on this 18 rotation and added pressure to serve or 19 function on other services.</p> <p>20 The point 2, duty concerns 21 regarding coverage.</p> <p>22 So frozen section coverage on 23 August 5th, I was asked to cover frozen 24 section service for an absent resident on 25 August 4th.</p>
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<p>1 LEENA VARUGHESE 2 approximately 30 minutes to get back. 3 Then on the morning of the 4 presentation at 7:00 a.m. Dr. Najfeld 5 e-mailed me stating she did not want me to 6 make the presentation, even though I was 7 prepared to do so, she also asked me to 8 inform other attendees that I would not 9 present.</p> <p>10 The presentation was postponed to 11 the next week, also the CP core conference 12 tends to have more than one conference 13 that gets presented so there is often me 14 and several other people who present.</p> <p>15 People may attend depending on the 16 number of conferences that are being 17 presented, and it's not always common 18 knowledge who is presenting, what is the 19 interesting case conference that we can, 20 so people do tend to show up at 9:00 a.m. 21 anyway and just are ready to discuss any 22 issues you have or any interesting 23 clinical pathology cases that have come 24 up.</p> <p>25 So that's one hour available time</p>	<p>1 LEENA VARUGHESE 2 I said that I would not be able to 3 do so without giving an elaborate 4 explanation as to why to the Chief 5 Resident.</p> <p>6 Basically I was not able to elevate 7 my arm because I had slept on it the wrong 8 way and my arm was numb for days. It 9 never happened to me before, so as such I 10 could not cover the frozen section service 11 for that day.</p> <p>12 I was sent an e-mail by Dr. Jordan 13 the co-Chief Resident who was on rotation 14 at this point that I needed to provide a 15 doctor's note documenting this injury.</p> <p>16 This is not something that can be 17 easily done, and especially if I am at 18 work, or so I wasn't able to do that, but 19 I explained to her that I tried to explain 20 to her that this particular -- I had this 21 particular injury, that's why I'm not able 22 to cover that particular day.</p> <p>23 So, she wanted me to -- so I found 24 that her request for me to -- and this is 25 not a call coverage, this is mainly every</p>

<p style="text-align: right;">Page 294</p> <p>1 LEENA VARUGHESE 2 day duty coverage, and actually at this 3 point the service tends to be mostly 4 resident dependent as well, the frozen 5 sections because there is a technologist 6 who does some of the work, but personally 7 for me I just couldn't cut the specimens 8 and some of those duties would require 9 some manual dexterity.</p> <p>10 So anyway, so I found the request 11 for a doctor's note rather unreasonable, 12 because I did go to work that day for 13 cytogenetics rotation and I was working 14 with the staff there.</p> <p>15 Dr. Najfeld was not there that day, 16 and anyway in order for me to get a -- so 17 I just thought it was unreasonable because 18 I would have to leave work and get a note.</p> <p>19 I also did -- I didn't change my 20 rationale for refusing the assignment, and 21 I did not believe I was dishonest or 22 insubordinate in these matters.</p> <p>23 I mentioned at a later date that I 24 did not think that it is ideal for me to 25 have to lose out on the limited time on CP</p>	<p style="text-align: right;">Page 296</p> <p>1 LEENA VARUGHESE 2 an away in Pennsylvania. 3 Dr. Jordan did not ask me to reply 4 to her, you can check the e-mail, it was a 5 little bit -- it was one of Elizabeth's 6 but she doesn't specifically ask me to 7 respond to her, and since I had this 8 discussion with her the Friday before 9 about the new policies in the Department, 10 I had a chance to review it and I decided 11 okay, if she says that I have to cover, it 12 just means that I am going to have to 13 cover, if I couldn't, I would have to tell 14 her. 15 Her rationale is that I'm not 16 telling her that I'm covering, but I 17 didn't think it was up to me at this 18 point, because I have to cover. 19 Anyway, so there was -- I 20 acknowledged her e-mail and I planned to 21 cover the service, if I was unable to 22 cover the service of course I would have 23 informed her. 24 But you have to also remember that 25 I have other responsibilities such as</p>
<p style="text-align: right;">Page 295</p> <p>1 LEENA VARUGHESE 2 rotations to cover AP service, similarly 3 because CP service is about 18 months and 4 AP service is about 36 months. 5 Personally I am not even -- I don't 6 think I am getting actually 18 months of 7 CP even though it's being stated that it 8 is CP by Dr. Lento. 9 So, I really am concerned that I 10 have the adequate time that I need for CP. 11 And last year there was a strict 12 prohibition of course within reason from 13 asking a senior resident on CP service to 14 cover AP services. 15 And this is not meaning like you 16 can't teach, of course, as a senior 17 resident you have to go and teach and do 18 all that, but from saying that you're 19 assigned to like the service if you really 20 need that requirement. 21 Finally, point 2, surgical coverage 22 on August 12th, so basically on August 12, 23 2011 I was asked to cover the surgical 24 pathology service by an e-mail from 25 Dr. Jordan, the Chief Resident who was on</p>	<p style="text-align: right;">Page 297</p> <p>1 LEENA VARUGHESE 2 going to cytogenetics so I had to meet 3 with Dr. Najfeld for the exit interview 4 which I expected would be somewhat 5 challenging. 6 I needed to prepare for this, I 7 spoke to her briefly regarding what I had 8 learned while I was on cytogenetics for 9 two weeks and she asked me questions on 10 techniques and methods in cytogenetics, 11 principles in cytogenetics and also 12 specific translocations associated with 13 different diseases, she also had me 14 complete the karyotype for the case that I 15 had to present, and I feel that at this 16 point I was ready to karyotype a case 17 somewhat competently. 18 So it was good that I didn't 19 present the case because before that I 20 would not have been able to karyotype this 21 case anyway, so I karyotyped the case and 22 I presented the same case the following 23 Tuesday. 24 During the midst of this Dr. Lento 25 calls cytogenetics lab and accuses me of</p>

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<p>1 LEENA VARUGHESE 2 not answering his pages. I never received 3 these pages and I apologized to him if he 4 had paged me and I did not call him back. 5 He then asked me if I knew that I 6 was covering and I said yes, I would be 7 covering for the afternoon and I also felt 8 confident that Dr. Lento would relay this 9 appropriate message to Adrienne Jordan and 10 I proceeded to work on my cytogenetics 11 rotations at that point.</p> <p>12 Point 3, unprofessional response to 13 request for change of elective rotation.</p> <p>14 So on August 3, 2011 I requested a 15 change from GI pathology to dermopath 16 directly to Dr. Firpa,</p> <p>17 I was told by Dr. Firpa that the 18 change would be fine if he had clearance 19 from Dr. Blejwas and that he would contact 20 her the following day.</p> <p>21 I spoke to him again on August 24th 22 of 2011 and he said that he was busy and 23 was not able to consider the request -- 24 consider my request to switch to 25 dermopath.</p>	<p>1 LEENA VARUGHESE 2 that was fine, I figured okay, you know, 3 it's an elective, great, I'll just do the 4 elective at this point. 5 But I was e-mailed on like a day 6 following that or two days following that 7 by Dr. Jordan stating that Dr. Firpa had 8 spoken to her about the GI elective and if 9 I wanted to switch it I would have to 10 speak to Dr. You, who was the only person 11 who could switch with me, it was just very 12 confusing for me and she just mandated 13 that I only speak with Dr. You, I only 14 e-mail him with Dr. Firpa cc'd. 15 And she stated I couldn't directly 16 approach Dr. You or talk to him or talk to 17 any other residents in the Department. 18 That event effectively prevents me 19 from doing my job, if there are other 20 residents interested in doing the 21 elective, that means I can switch to a 22 different elective, but Dr. Adrienne 23 Jordan is basically saying that I am only 24 allowed to talk to Dr. You, she is the 25 only person who can switch with you and</p>
<p style="text-align: center;">Page 299</p> <p>1 LEENA VARUGHESE 2 Finally, my request was denied on 3 September 7th. 4 I spoke to Dr. Firpa in person to 5 discuss why my request was denied, and he 6 initially told me that Dr. Blejwas had 7 approved my request. 8 I had also spoken to Dr. Harpaz 9 several times at this point, I spoke to 10 him on August 24th because I was on call 11 at the hospital, so I spoke to him about 12 5:30 or so, and then I spoke to him again 13 on September 1st when I arrived back at 14 the hospital. 15 So he had told me that he was 16 amenable to me changing from GI pathology 17 to any other elective of my choosing, as 18 long as he had coverage. 19 So, basically I talked to Dr. 20 Harpaz and he said that he was amenable to 21 my request if he had a medical student or 22 resident who was on the service, but any 23 way I just accepted at this point that my 24 request was denied and I was going to have 25 to do GI whether I liked it or not, and</p>	<p style="text-align: center;">Page 301</p> <p>1 LEENA VARUGHESE 2 you have to do it in this particular 3 format; don't approach this person. 4 I mean it's just rather strange. 5 Anyway, so anyway so I spoke with 6 Dr. Firpa that day, that was around 7 lunchtime, he claims that I was being 8 loud, but when I left his office he said I 9 can -- he has an open door policy and I 10 can bring my concerns to him in the 11 future. 12 So I just thought we left 13 everything off on a nice cordial note, not 14 necessarily that he was very upset with me 15 and he felt that I was yelling at him. 16 So anyway, eventually I spoke to 17 Dr. Elise Suarez who was the GI fellow at 18 the moment, and I made arrangements with 19 her for the week of October 2nd because I 20 wanted to attend the Ossler, I imagine 21 even if I were to be on GI elective I 22 would be allowed to attend the Ossler 23 review course, which was coming up soon, 24 so I made arrangements with her and she 25 said that was fine, she's happy to cover</p>

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<p>1 LEENA VARUGHESE 2 for one week, and then basically I found 3 out when I got the summary suspension 4 that, you know, this was all misconstrued 5 as being unresolved. 6 Anyway moving on, Moore conference 7 attendance and adherence to departmental 8 policy. 9 On August 29, 2011 I was sent an 10 e-mail stating I had not attended 80 11 percent of the conferences during period 12 2. 13 This new conference attendance 14 policy was instituted on on August 15th by 15 Dr. Adrienne Jordan as I had signed an 16 acknowledgment of receipt and I also 17 submitted and signed the acknowledgment of 18 receiving and reviewing this new policies 19 on August 15th. 20 Dr. Adrienne Jordan, the co-Chief, 21 was not at the hospital for that period 22 and Dr. Elizabeth Morency, the other Chief 23 Resident, was on vacation for the first 24 two weeks of this rotation. 25 On September 13, 2011 I called out</p>	<p>1 LEENA VARUGHESE 2 didn't present at the conference. 3 It states that, there was an e-mail 4 sent to me by Dr. Hughes of the physician 5 wellness committee that states that its 6 because I didn't present at a conference. 7 It's one of my exhibits. So that's 8 Exhibit 21. 9 The fellow, Dr. Robert Guarino who 10 was initially assigned to present on 11 August 14th and given ample time to 12 prepare, I believe that was 15th, 13 September 15th and given ample time to 14 prepare, attended the conference and did 15 not present that day, that morning. 16 I did not believe my inability to 17 present a conference on a very short 18 notice is a fair reason for referral to 19 the physicians wellness committee. 20 The fellow who was initially 21 supposed to present and was in attendance 22 was not referred to the physician wellness 23 committee for not presenting. 24 Poor communication regarding leave 25 of absence.</p>
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<p>1 LEENA VARUGHESE 2 sick, however I had hoped that I would 3 recover and present a brief surgical 4 pathology lecture. 5 Dr. Adrienne Jordan was not 6 satisfied with the topic and wanted me to 7 present on some other list of topics. 8 I did not have the adequate time to 9 prepare a new presentation when I wasn't 10 feeling well, the following day, September 11 14th I did not feel significantly better 12 so I called out sick again. 13 Soon after on September 14th when I 14 was out sick I was sent another e-mail 15 stating I had to present on September 15th 16 because a fellow who had been scheduled to 17 present for several months prior would not 18 be presenting. 19 I attended the September 15th 20 conference but I could not present because 21 I did not have adequate time to prepare 22 the presentation. 23 Following this the Department 24 decided to refer me to physician wellness 25 committee for the second time because I</p>	<p>1 LEENA VARUGHESE 2 Dr. Firpa did not meet with me to 3 discuss an early departure from the 4 residence conference on Thursday as 5 mentioned above. 6 Later that morning on September 7 15th, Dr. Firpa asked me how I was 8 feeling, I had taken two sick days 9 previously and I said that I was well, but 10 I was considering taking a month off 11 through the Family Medical Leave Act, if 12 it can be approved by the hospital and by 13 my doctors. 14 He stated that it may be a good 15 idea, he said that I had a lot of 16 potential and that I'm an excellent 17 resident, he stated that in the meantime 18 he wanted nothing more than for myself to 19 be able to work on hemopath without 20 additional stressors. 21 He stated that he would e-mailing 22 Dr. Jordan and would communicate directly 23 with me. 24 I also shared with him that I spoke 25 to my doctor already and that it would be</p>

<p style="text-align: right;">Page 306</p> <p>1 LEENA VARUGHESE 2 at least one week before I could obtain an 3 appointment. 4 So, Dr. Firpa was aware that it 5 would take me at least one week to obtain 6 an appointment with my doctor. 7 Dr. Firpa apparently misconstrued 8 this information and he sent me an e-mail 9 and that's Exhibit 26, this e-mail was 10 sent to me on Thursday, at 3:51 p.m. by 11 Dr. Firpa, the other individual cc'd on 12 this e-mail is Bruce Peterson, Shema 13 Patel, Patrick Lento and Karen Tiger 14 Paillex. 15 I continued with my work for the 16 remainder of the day. 17 The following day, September 16th, 18 I arrived at 9:00 a.m. and continued with 19 the work for the day. 20 I received an extremely unusual 21 e-mail that afternoon from Dr. Firpa which 22 made little sense when compared to the 23 e-mail he sent to me the day before. 24 And this e-mail is exhibit -- one 25 of the exhibits from the Department.</p>	<p style="text-align: right;">Page 308</p> <p>1 LEENA VARUGHESE 2 Hughes who stated that physician wellness 3 committee would like to speak to me. 4 Due to these confusing messages and 5 e-mails, I called my doctor and asked 6 specifically if I could proceed with the 7 family medical leave of absence, she's a 8 psychiatrist, called to inform me to speak 9 to my primary care doctor. 10 At that point I took her advice and 11 spoke to my primary care physician who has 12 known me as a patient for several years. 13 I talked with him at length about 14 my health and work related stressors. 15 After much consideration his opinion was 16 that the family medical leave of absence 17 is not necessarily warranted. 18 He said that if all my concerns 19 were due to work related stress, to please 20 call the psychiatrist again. 21 So I spoke to my psychiatrist again 22 and she refused to grant me a leave of 23 absence after a lengthy phone conference. 24 I did not attempt to leave, I did 25 not attempt to obtain a third opinion, at</p>
<p style="text-align: right;">Page 307</p> <p>1 LEENA VARUGHESE 2 So this is Exhibit 16 from the 3 Department. So e-mail sent the next 4 afternoon. 5 Which basically the sentiment and 6 the tone is completely opposite of the 7 e-mail he sent to me the day before. 8 He stated that I needed a doctor's 9 note to attend work. He wanted doctor's 10 notes for my previous sick days to be in 11 the hospital. 12 As you are well aware and we have 13 discussed this, the HR policy, the 14 hospital policy is doctor's notes are only 15 required for three consecutive sick days 16 or if there is a call coverage issue and 17 call is not covered. 18 I received an e-mail from 19 Dr. Jordan also stating that this was the 20 case. 21 Then shortly after I received a 22 page, the same day I received a page when 23 I was in the hospital I returned that page 24 but no one answered and then around 5:30 25 p.m. I noted several e-mails from Dr.</p>	<p style="text-align: right;">Page 309</p> <p>1 LEENA VARUGHESE 2 this point I resolved myself to having to 3 work through this particular situation. 4 I did not make any attempts to 5 mislead or misrepresent my intentions 6 regarding the family medical leave of 7 absence to Dr. Firpa, Human Resources, 8 physicians wellness committee, medical 9 education, Ms. Patel, et cetera. 10 In fact, I informed HR, Mr. Robert 11 Maglione, who is the administrative 12 assistant to Karen Tiger, that my 13 physicians have all denied me family 14 medical leave of absence. This is on 15 Tuesday, around noon. 16 In the meantime, they all sent me 17 e-mails, left voice mails and so on 18 stating that their sentiment regarding my 19 right to be at work is that I do not have 20 the right to be at work. 21 In this particular circumstance I 22 felt the best course of action for me was 23 to follow hospital policy and be present 24 at work unless I was going to take a sick 25 day or be not at the hospital if I felt</p>

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1 LEENA VARUGHESE 2 ill. 3 I do have the right to request 4 family medical leave of absence for 5 personal health problems, I think that the 6 Federal Law states that it can be up to 12 7 months. 8 There are portions that are covered 9 by the health insurance or without pay, I 10 felt that my request was not unreasonable 11 but the communication and befudllement 12 were all a production of Dr. Firpa and Ms. 13 Patel. 14 This has been a problem for me with 15 Dr. Firpa over the past few months and 16 this is a discussion that I had already 17 had with Dr. Barnett on September 11, 18 2011. 19 So, going to 6, an incident in Ms. 20 Patel's office. 21 I spoke to Ms. Patel on September 22 19th, 2011 with Ms. Kim Berlin present 23 regarding the family medical leave. 24 Around 4:30 p.m., Ms. Patel didn't 25 verify the date and sign the forms that	1 LEENA VARUGHESE 2 She came in soon after and accused 3 me of looking at confidential information, 4 she stated that everything in her office 5 was confidential, at which point I was 6 once again bewildered by the incongruity 7 of the situation, in regard to -- and her 8 disregard of my plans for the day which 9 was attending the conference and carry on. 10 Anyway, I had no intention of 11 rising from my chair and exploring all the 12 documents in her office, I simply looked 13 at the folder that was in front of me very 14 briefly. 15 Finally, Ms. Tiger Paillex rang Ms. 16 Patel at which point Ms. Patel insisted 17 that I walk over to HR office to meet with 18 myself, Tiger Paillex, I was effectively 19 incredulous at the turn of events and 20 summarily dumbfounded by the turn of the 21 day. 22 Ms. Tiger Paillex wanted 23 Mr. Johnson or the GME to attend the 24 meeting and waited, wanted me to wait for 25 him, however the meeting ensued shortly,
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1 LEENA VARUGHESE 2 they should have, that the hospital should 3 have when she gave me the form an 4 9/15/2011. 5 The following day I saw Ms. Patel 6 at the Starbucks and I said hello to be 7 polite and she started being extremely 8 confrontational 9 she said I cannot attend the 10 morning conference at 8:00 a.m, she then 11 asked me to go to her office and she 12 wouldn't allow me to leave. 13 I asked her repeatedly what the 14 issue was and whether or not I could 15 attend the 8:00 a.m. conference. She kept 16 making several phone calls to Ms. Tiger, 17 Dr. Firpa and so on. 18 While I simply waited there in her 19 office. She left the office and stepped 20 out for a very long time to assist a young 21 man to a nearby office, the door to her 22 office was open as I waited there, there 23 was a folder on her desk next to where I 24 placed my coffee which I leafed through 25 with no ulterior motive.	1 LEENA VARUGHESE 2 they essentially interrogated me regarding 3 my presence at work, then I'm supposed -- 4 when I'm supposed to see the doctor, 5 forced me essentially to speak to Dr. 6 Hughes on the physician wellness committee 7 and essentially treated me like a 8 criminal. 9 I managed to maintain my reasonable 10 and calm nature and spoke to them. 11 I answered all their questions to 12 the best of my ability, and also I would 13 like to point out that I do have the house 14 staff policy manual here and in that the 15 family medical leave of absence can be 16 foreseeably asked up to 30 days in 17 advance, and it can be planned. 18 So I believe there isn't a real 19 issue with how I communicated with them on 20 this particular issue. 21 So anyway, in conclusion, I am a 22 fourth year resident in the final year of 23 training, the most arduous part of the 24 pathology residency training is surgical 25 pathology rotations or the AP part, where

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1 LEENA VARUGHESE 2 the resident is required to grow, render 3 diagnostic information in conjunction with 4 attending pathologists. 5 To date I have yet to be aware of 6 how or where I have mismanaged any case 7 that has affected patient's outcome, and I 8 have not. 9 So many of the attendings that I 10 work with say that I have well studied my 11 cases usually and I use clinical and 12 pathological correlation appropriately to 13 render the pathologic diagnosis. 14 I was on call many times and 15 attendings trust me to render frozen 16 section diagnosis independently with their 17 approval, many of my evaluations including 18 my most recent surgical pathology 19 evaluations are very positive. 20 I believe that I satisfactorily 21 completed all my rotations to this point 22 despite the stress, scrutiny and 23 hostility directed at me. 24 I would like to call witnesses to 25 expand on all these points, but I believe	1 LEENA VARUGHESE 2 Tuesday, so basically I was sent an 3 e-mail by Dr. Firpa stating that okay, 4 in the last -- 5 DR. MARIN: You can let that go. 6 DR. VARUGHESE: Here is the 7 thing, I'm getting conflicting messages 8 from Dr. Firpa, this has exactly been my 9 problem. 10 DR. MARIN: We read the message 11 there was at least one statement that 12 was clear in that proposed letter that 13 said you were not to come in until that 14 was resolved. 15 I will just ask one question, it 16 was your intention to come in? 17 DR. VARUGHESE: It was my 18 intention to come into work. 19 DR. MARIN: The next question is 20 you looked at one of the files, is that 21 correct, without question, you were in 22 the office, you opened the file that 23 didn't belong to you, is that true or 24 not true? 25 DR. VARUGHESE: That is true.
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1 LEENA VARUGHESE 2 the only witness that I have here is Ms. 3 Karen Tiger Paillex. 4 DR. WEINFELD: You want to call 5 the witness? 6 DR. VARUGHESE: Yes. 7 MR. McEVOY: No questions. 8 DR. MARIN: I would like to ask 9 some brief questions. 10 It came to me as I was listening to 11 you that the issue when you were in 12 Starbucks you had received prior to that 13 you had received a statement you were not 14 to return to work. 15 When you were in Starbucks, were 16 you planning on coming back into the 17 hospital or were you just happened to be 18 at Starbucks and then you were recruited 19 to come to Ms. Patel's office? 20 Was it your intention to come into 21 the hospital that day? 22 DR. VARUGHESE: Yes. 23 DR. BRONHEIM: Even though you 24 were told to leave? 25 DR. VARUGHESE: Well, this is	1 LEENA VARUGHESE 2 DR. MARIN: What did the file 3 say? 4 DR. VARUGHESE: I wasn't trying 5 to find anything. 6 DR. MARIN: I understand, but 7 what did you see? 8 DR. VARUGHESE: I don't -- I 9 didn't even really read anything. 10 DR. MARIN: Did you think it was 11 wrong that you did that? 12 And do you think it was wrong now? 13 At the time was it wrong and do you 14 think you were wrong at this time? 15 DR. VARUGHESE: I wasn't trying 16 to look at confidential information. 17 DR. MARIN: I'm not asking you 18 that. 19 Do you think that having done that, 20 looked at that file at the time was wrong 21 and now after consideration do you think 22 it's wrong today? 23 DR. VARUGHESE: I mean at the 24 time I didn't think I was doing anything 25 wrong.

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1 LEENA VARUGHESE 2 DR. MARIN: Okay, how about 3 today? 4 DR. VARUGHESE: Today, now that I 5 know it's confidential information -- 6 DR. MARIN: No, no, you are in 7 someone else's office you open up a file 8 on their desk, is that wrong or is that 9 not wrong? 10 DR. BRONHEIM: Okay, that's an 11 answer. 12 DR. WEINFELD: Why don't we -- 13 DR. MARIN: I have one more 14 question, you mentioned, and this is 15 very important, during your description 16 here you said you had this altercation 17 with the Chief Resident, and you 18 specifically said and it went into the 19 record, that you were physically abused 20 by that Chief Resident. 21 Is that what you meant to say, or 22 would you retract that statement? 23 DR. VARUGHESE: I didn't say 24 that. 25 DR. MARIN: You did say that.	1 LEENA VARUGHESE 2 DR. VARUGHESE: Well, 3 Dr. Peterson is my advisor. 4 DR. MARIN: Is there someone who 5 you feel would be your confidante and 6 would rise to your defense in the 7 context of all the things that have 8 happened? 9 DR. VARUGHESE: I think most 10 people can. 11 DR. MARIN: I'm asking not most 12 people, I'm asking you and I'm asking 13 for is there one person. 14 DR. VARUGHESE: Who wouldn't 15 defend me and I think at that point you 16 can call in any other people. 17 DR. MARIN: I didn't ask you that 18 question, I asked you is there a single 19 person in the Department who you could 20 go to who would rise and defend you in 21 the context of what's happening after 22 four years in the Department. 23 DR. VARUGHESE: Yes. 24 DR. MARIN: Who would that be? 25 DR. VARUGHESE: There would be
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1 LEENA VARUGHESE 2 You may not have meant to say it, that's 3 what I want to clarify. 4 DR. VARUGHESE: Physically. 5 DR. MARIN: Physically, you were 6 you were stating that you were 7 physically intimidated. 8 DR. VARUGHESE: Yes. 9 That means following me around 10 pointing at me, with very little -- 11 DR. MARIN: Did he place his 12 hands on you? Did he hit you or did you 13 at any point feel threatened. 14 DR. VARUGHESE: Yes, I did feel 15 threatened, yes. 16 DR. MARIN: My last question is 17 in the entire Department of Pathology, 18 is there any attending in the Pathology 19 Department that you could call upon who 20 would be your mentor or your advocate in 21 these proceedings now or that you find 22 as a friend and a close confidante, 23 after four years in the Department? 24 DR. VARUGHESE: Yes. 25 DR. MARIN: Who would that be?	1 LEENA VARUGHESE 2 several. 3 DR. WEINFELD: Just name one, 4 that's all we ask. 5 DR. VARUGHESE: All right, well I 6 can say Dr. Lamp from the Bronx VA. 7 DR. MARIN: Thank you. 8 DR. ROCCO: I have one question. 9 So you've been accused of many things 10 today and you've kind of gone through 11 them and we listened to your 12 explanation, I just want to know out of 13 all of the things in terms of your 14 actions, do you take responsibility or 15 do you feel remorse involving any of the 16 things that you've talked about, if you 17 just think about your own actions? 18 DR. VARUGHESE: Is there a 19 particular -- 20 DR. ROCCO: Is there anything 21 that you feel you know what, I was wrong 22 on this case and I kind of take 23 responsibility for that, out of all of 24 the incidents that we heard today? 25 Like missing call?

<p style="text-align: right;">Page 322</p> <p>1 LEENA VARUGHESE 2 DR. VARUGHESE: I didn't miss 3 call. Various. 4 DR. ROCCO: Any of the things 5 that have been brought up today, any? 6 DR. VARUGHESE: Well, I never 7 missed call. 8 DR. ROCCO: That was just one 9 example, anything. 10 DR. BRONHEIM: Do you think you 11 should have seen a psychiatrist and 12 taken medical leave? 13 DR. VARUGHESE: What? 14 DR. BRONHEIM: Do you think you 15 should have taken medical leave and seen 16 a phsyciatrist as recommended? 17 DR. VARUGHESE: That's what I was 18 trying to do. 19 DR. BRONHEIM: When? 20 DR. VARUGHESE: When I asked for 21 the medical leave of absence. 22 DR. BRONHEIM: But you didn't see 23 somebody. 24 DR. VARUGHESE: I did, I spoke to 25 the psychiatrist that I was seeing and</p>	<p style="text-align: right;">Page 324</p> <p>1 LEENA VARUGHESE 2 the reason was that I came to see you on 3 Tuesday, for the family, this wasn't on Tuesday 4 morning, Shema Patel called you? 5 A The last time I met with you? 6 Q Yes. 7 A Shema called me because the 8 Department had met with you, you had told them 9 that you were not able to work, that you were 10 not feeling well, you had taken a couple of 11 days off prior and the Department allowed you 12 the time to get off, that your well-being was 13 most important and that you see your physician. 14 They gave you the time off on 15 that Tuesday, they found out after numerous 16 e-mails and calls that you didn't respond to, 17 that you were actually working in the 18 Department during the days even though the 19 Department had given you off. 20 So they asked me to meet with 21 you for a couple of reasons, one being that 22 they were concerned about your well-being and 23 wanted to know about your FMLA status. 24 One being that they were 25 constantly contacting you and you weren't being</p>
<p style="text-align: right;">Page 323</p> <p>1 LEENA VARUGHESE 2 she just felt given the circumstances 3 and she was aware of the surrounding 4 situation and the story, she didn't feel 5 comfortable given a family medical leave 6 of absence. 7 DR. LEITER: She was seeing 8 someone outside of the hospital. 9 DR. WEINFELD: We will have an 10 opportunity to do this if we need, why 11 don't we bring our witness in. 12 Let's do that and then we can 13 proceed. 14 C A R Y N T I G E R P A I L L E X, 15 called as a witness, having been first 16 duly sworn by the Notary Public, was 17 examined and testified as follows: 18 19 DR. WEINFELD: Dr. Varughese, go 20 ahead. 21 22 DIRECT EXAMINATION BY DR. VARUGHESE: 23 24 Q So, can you please describe what</p>	<p style="text-align: right;">Page 325</p> <p>1 LEENA VARUGHESE 2 responsive. 3 And you were showing up to work 4 even though they asked you not to, until you 5 had medical documentation. 6 And that you were in Shema's 7 office and when she left you in her office you 8 were going through files on her desk. 9 So I asked to meet with you to 10 follow up with those issues. 11 Q What is the hospital policy 12 regarding the Family Medical Leave Act? 13 A What is? 14 Q Can I plan that in advance? Can 15 I request, can I foresee that I may need a 16 family medical leave of absence? 17 A Sure, that's what you did and 18 you were provided the documentation, but you 19 continued to come to work and the reason why 20 you were asked not to come to work is because 21 you were saying that you weren't feeling well 22 and you weren't feeling well enough to work, 23 that's why they not only -- the Department not 24 only asked you if you had an appointment with 25 your doctor, but they also offered to get an</p>

<p style="text-align: right;">Page 326</p> <p>1 LEENA VARUGHESE 2 appointment because you had told them that you 3 weren't going to be able to get a doctor's 4 appointment until the following week. 5 When I met with you that 6 Tuesday, you had told me that you went to your 7 psychiatrist the week before and they wouldn't 8 grant you a family leave and they told you to 9 go see your primary care physician. 10 And you were going to see your 11 primary care physician that afternoon. 12 During that same meeting I asked 13 you if you got ahold of Dr. Dan Hughes because 14 he was trying to reach out to you, and you said 15 no, because you didn't want to deal with him. 16 We explained to you that he was 17 part of physicians wellness and you needed to 18 reach out to him, and we actually called him, 19 if you recall, in my office and had the two of 20 you talk and actually scheduled an appointment 21 for that Thursday to follow up.</p> <p>22 Q So here is the thing Dr. Firpa 23 sent me an e-mail on Thursday at 3:51 p.m. 24 basically saying what the circumstances were 25 regarding the sick day and how he understood.</p>	<p style="text-align: right;">Page 328</p> <p>1 LEENA VARUGHESE 2 doctor? 3 A The paperwork. 4 Q The paperwork before he 5 instructs anybody that I'm not going to be in 6 the hospital. 7 DR. WEINFELD: So what's the 8 question? 9 Q So, were you surprised that now 10 I don't have this document yet, but everybody 11 is asking me not to be at work? 12 A Am I surprised at what? 13 Q Like why is that, why is 14 everyone asking me? 15 I mean I am well, I am 16 interacting with my mentor, I am signing out 17 all the cases without any mistakes and this is 18 Thursday, Friday, Monday, Tuesday, so what do 19 you think, why do you think people are saying 20 that I shouldn't be, after understanding what I 21 conveyed, saying that, you know, now I'm here, 22 you know, I will have to get a doctor's note in 23 the future, and Dr. Firpa had understood that, 24 then going back and claiming that I'm not well 25 enough now and I need to get a doctor's note in</p>
<p style="text-align: right;">Page 327</p> <p>1 LEENA VARUGHESE 2 In fact, let me just quote him 3 here. 4 DR. MARIN: You will have to have 5 a question. 6 DR. WEINFELD: Are you coming to 7 a question? 8 DR. BRONHEIM: You can sum up 9 later. 10 DR. WEINFELD: Are you coming to 11 a question? 12 DR. VARUGHESE: Yes. 13 Q So basically he says that I'm 14 sorry you could not get an appointment with 15 your physician sooner than next week. 16 Since your health is paramount 17 to all of us, please meet with Dr. Peterson and 18 discuss the situation candidly. 19 And he also says, just referring 20 to the family medical leave, as you asked of 21 me, I will wait to inform the Chief Residents 22 to remove from the rotation schedule until you 23 obtain and provide this doctor's note and I 24 think Dr. Firpa is referring to the family 25 medical leave having that form filled out by my</p>	<p style="text-align: right;">Page 329</p> <p>1 LEENA VARUGHESE 2 order to be on the floor on I guess Monday was 3 and then Tuesday? 4 DR. WEINFELD: So what's the 5 question for Ms. Tiger? 6 Q So do you think that's a 7 reasonable thing to do? 8 A You are asking my opinion on 9 whether or not I think? 10 Q I am asking you like what is the 11 protocol for something like that? 12 A I think if the Department, if 13 you tell the Department that you do not feel 14 well enough to work, they should and did try to 15 make every effort to get you to a doctor to 16 help you. 17 DR. WEINFELD: Could I interrupt 18 you for a second. I'm not sure it's 19 clear what your official position is at 20 Mount Sinai, so I would like to ask what 21 your position is in Mount Sinai. 22 THE WITNESS: My position is 23 Director of Human Resources for the 24 School of Medicine. 25 Q I met with you on Tuesday</p>

<p style="text-align: right;">Page 330</p> <p>1 LEENA VARUGHESE 2 morning and what did you think of -- you spoke 3 to me and we had a one hour long conversation 4 with you, me and Mr. Johnson, so did you think 5 that I was so ill that I couldn't at work? 6 A I'm not a physician, so I can't 7 answer whether or not you are ill. 8 So -- 9 Q So the hospital policy is I can 10 foresee a family medical leave absence or a 11 leave of absence for up to 30 days in advance, 12 right, and I can take the time I need to come 13 up with the documentation? 14 A I don't understand your 15 question. 16 Q The Human Resources policy -- 17 DR. MARIN: I think we have 18 already established that's well 19 documented in the hospital policies, we 20 don't need to go through it again. 21 Q So the HR policy on sick days, 22 it's after three days that I have to bring a 23 doctor's note? 24 After three days? 25 A In the house staff manual?</p>	<p style="text-align: right;">Page 332</p> <p>1 LEENA VARUGHESE 2 A I don't think your claim was on 3 the academic advisement, I think it was on 4 harassment. 5 And I investigated the 6 harassment claim and issued a decision. 7 In my findings -- 8 Q At what point? 9 A Sometime in April. 10 Q Sometime in April? 11 A Yes. 12 DR. WEINFELD: Who gets a copy of 13 that decision? 14 THE WITNESS: Of the? 15 DR. WEINFELD: It says the 16 findings of the grievance. 17 THE WITNESS: I sent Dr. 18 Varughese a copy of my decision and the 19 Department was made aware of my 20 decision. 21 DR. BRONHEIM: Can you tell us 22 what it was? 23 THE WITNESS: I did not find 24 harassment. 25 DR. BRONHEIM: By Dr. Najfeld?</p>
<p style="text-align: right;">Page 331</p> <p>1 LEENA VARUGHESE 2 Q Yes. 3 A I would have to check. 4 Q I don't think it's in the house 5 staff manual, it's in a different manual. 6 So it's basically three days 7 unless it's call, so there is no real reason to 8 ask me to bring a doctor's note. 9 DR. BRONHEIM: That's different 10 from being asked by your Department to 11 take a leave. 12 You are asking about the medical 13 illness like the flue versus your being 14 formally asked by letter to take a leave, 15 that's a different, those are different 16 issues. 17 DR. VARUGHES: Well, I requested 18 a leave, they were not asking me to take 19 a leave. 20 DR. BRONHEIM: Okay. 21 Q So I filed a grievance with you 22 in December sometime regarding the academic 23 advancement and you never -- when did you get 24 back to me about the findings related to that 25 particular complaint?</p>	<p style="text-align: right;">Page 333</p> <p>1 LEENA VARUGHESE 2 THE WITNESS: Yes. 3 DR. WEINFELD: I have a question, 4 Dr. Varughese said that she never heard 5 back and you are saying that a decision 6 was sent to her and to the Department? 7 THE WITNESS: Right, we actually 8 met and I met with her to discuss my 9 findings and then I gave her a 10 formalized letter. 11 DR. WEINFELD: Does that jog your 12 memory at all? 13 DR. VARUGHES: Yes, I was being 14 continued on academic advisement I had 15 to go through the physician wellness 16 committee, all these things were 17 happening and I was just getting more 18 and more worried and then finally I 19 reached out to Karen, Ms. Tiger because 20 I felt like I didn't know what their 21 findings were, and I'm still on all 22 these actions were taken against me and 23 there is nothing is resolved and this 24 keeps continuing onward and onward. 25 DR. WEINFELD: The question was</p>

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1 LEENA VARUGHESE 2 did you receive a response. 3 DR. VARUGHESE: I contacted her 4 then she gave me -- 5 DR. WEINFELD: Did you -- 6 DR. VARUGHESE: Yes, she gave me 7 a document stating that that was her 8 finding at that point, a month before. 9 DR. WEINFELD: Any other 10 questions for Ms. Tiger Paillex? 11 DR. VARUGHESE: No. 12 DR. WEINFELD: Any questions from 13 the Department of Pathology? 14 DR. FIRPA: No. 15 DR. WEINFELD: Questions from the 16 Committee? 17 Thank you for staying. 18 DR. WEINFELD: Dr. Varughese, any 19 other witnesses you would like to call? 20 DR. VARUGHESE: Well, I don't 21 think anyone else is out there, so -- 22 DR. WEINFELD: Do you need more 23 time to coordinate witnesses? I mean to 24 present additional evidence on your 25 behalf?	1 LEENA VARUGHESE 2 would like one, we can certainly do it. 3 DR. WEINFELD: We would have 4 liked it four hours ago, but if you 5 would like it you can have one now, too, 6 it's okay. 7 MR. McEVOY: Dr. Varughese gets 8 to go first. 9 DR. WEINFELD: Do you want to 10 make any concluding remarks? 11 DR. VARUGHESE: Yes, I would like 12 to make concluding remarks. 13 So basically all the points listed 14 in the summary suspension termination 15 letter were not previously mentioned to me 16 as possible reasons for termination. 17 While I was on a final warning, 18 meaning disciplinary due to issues prior 19 to either Dr. Cordone-Cardo or Dr. Firpa's 20 arrival, I feel that they have played a 21 major role in what has happened, and for 22 these reasons I feel that the actions 23 taken against me were both arbitrary and 24 capricious. 25 And, in fact, the way it was
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1 LEENA VARUGHESE 2 DR. LEITER: Did you want to 3 summarize or say anything else? 4 DR. WEINFELD: We are not there 5 yet. 6 DR. VARUGHESE: Can you give me a 7 minute? 8 DR. WEINFELD: Sure. 9 Anything further, Dr. Varughese, 10 that you want, any further witnesses? 11 DR. VARUGHESE: I mean I don't 12 think I want to call -- I had a witness 13 list but no one is here, so I think I 14 would just like to conclude the hearing. 15 DR. WEINFELD: I just wanted to 16 ask, if you have any objection to the 17 proceedings that took place today, 18 anything that -- the conduction of this 19 hearing that you want to put on record? 20 DR. VARUGHESE: No. 21 DR. WEINFELD: Okay, any closing 22 statements, concluding remarks by either 23 Dr. Varughese or Department of 24 Pathology? 25 MR. McEVOY: If the Committee	1 LEENA VARUGHESE 2 conducted by asking Dr. Firpa, Tiger 3 Paillex, having several security personnel 4 while all the residents were in the 5 residents room and I was being essentially 6 asked to leave the premises while I wasn't 7 doing anything wrong, other than being at 8 work and as approved by both my 9 physicians. 10 So I did what I could, I calmly 11 collected my things from my desk and I was 12 escorted by security and I left the 13 hospital. 14 In the past I have worked with good 15 faith with my superiors, including Dr. 16 Lento, but I feel that he has been very 17 dishonest and not very forthright in his 18 dealings with me in the past year. 19 I have also been suspended and 20 terminated in my final year as I prepare 21 to take my Board examination, including 22 having paid for the Ossler course out of 23 my own pocket and the Department is paying 24 for everybody else. 25 So I do believe that I am treated

<p style="text-align: right;">Page 338</p> <p>1 LEENA VARUGHESE 2 unfairly on a daily basis and, in fact, 3 once again these actions are very 4 arbitrary and capricious, and although I 5 don't have a lawyer here, I do have legal 6 counsel who advises me and I will have to 7 take whatever actions I need to. 8 But I felt this was a peer-to-peer 9 review Committee and I feel very 10 comfortable and calm that the Committee is 11 competent and I don't need to have legal 12 counsel, per se. 13 And finally, in conclusion, I 14 basically I worked with the Department of 15 Pathology and the pathology residency 16 program at Mount Sinai Hospital, I 17 performed all my duties to my most 18 capability and very competently. 19 I have attempted to reconcile my 20 differences with the former director, Dr. 21 Lento and I also feel that I have had to 22 attend and I have also tried to attend 23 therapy for related stressors, et cetera, 24 due to this particular -- due to 25 specifically what's happening.</p>	<p style="text-align: right;">Page 340</p> <p>1 LEENA VARUGHESE 2 In the interests of time I would 3 request the Committee's permission to make 4 the closing statement on behalf of the 5 Department. 6 DR. WEINFELD: Okay. 7 MR. McEVOY: First of all, I just 8 want to refocus the Committee on the 9 fact that at least it's the Department's 10 position that the period of time we are 11 looking at here is between the final 12 warning and the discharge, roughly a 13 period of about two months, from July 14 15th to September 21st of 2011. 15 And you have heard testimony from 16 the witnesses for the department on all of 17 the incidents that form the basis of the 18 decision to terminate Dr. Varughese. 19 And you have heard Dr. Varughese 20 essentially say none of that is true, 21 everybody is wrong, everybody is out to 22 get me. 23 I don't think it serves any of our 24 interests or purpose for me to go through 25 each of those incidents in detail to</p>
<p style="text-align: right;">Page 339</p> <p>1 LEENA VARUGHESE 2 And I had also previously requested 3 a transfer as PGY 2 and even as a PGY 3 4 with Dr. Lento because I felt that it may 5 be too -- given the circumstances it may 6 be difficult for me. 7 DR. WEINFELD: Transfer to what? 8 DR. VARUGHESE: To a different 9 program, however I felt that I could 10 successfully complete the training given 11 a fair opportunity to do so and by 12 removing the ambivalent, arbitrary and 13 capricious actions taken against me over 14 the past year. 15 Since my formal complaint with 16 Samuel McCash inherently committed his 17 harassing actionings, so basically I just 18 wanted to be treated fairly, I want to do 19 my job and I just want to graduate and go 20 on with my life. 21 DR. WEINFELD: Thank you. 22 DR. VARUGHESE: Thank you. 23 MR. McEVOY: I think the rules 24 permit counsel to make the closing 25 statement.</p>	<p style="text-align: right;">Page 341</p> <p>1 LEENA VARUGHESE 2 explain why what Dr. Varughese says is 3 demonstrably not true, you have heard it, 4 you can read her self-assessment and 5 decide for yourselves whether it is really 6 what she says it is, or what Dr. 7 Cordone-Cardo says it is. 8 You can read the e-mails that show 9 that Dr. Varughese insists that she e-mail 10 the presentation to Dr. Najfeld on Friday, 11 but the e-mail shows it's on Monday, there 12 are so many of those that I wouldn't even 13 know where to start, and it would take me 14 a long time to finish. 15 But the short answer is that in 16 order to believe Dr. Varughese' version of 17 all of these incidents, you have to 18 disbelieve every witness who testified on 19 behalf of the Department. 20 That Dr. Cordone-Cardo, Dr. Firpa, 21 to Dr. Najfeld to Dr. Jordan to 22 Dr. Morency to Dr. Lento to Mr. Johnson to 23 Ms. Patel, have all made this up out of 24 hole cloth that none of these things 25 happened, even though Dr. Varughese kind</p>

<p style="text-align: right;">Page 342</p> <p>1 LEENA VARUGHESE 2 of ultimately admits well, I did sort of 3 flip through a file, but can't bring 4 herself to say that that's wrong. 5 Can't bring herself to acknowledge 6 that that was something she shouldn't have 7 done, and that really is the point of all 8 of this. 9 The events that took place in a six 10 or eight or ten week period more than 11 justify the decision to terminate somebody 12 who is on final warning. 13 But the real problem I think is 14 that Dr. Varughese is unable to accept the 15 fact that she bears any responsibility for 16 any of this. 17 That she did anything wrong, that 18 anything that she was told to do or asked 19 to do or was instructed to do is 20 reasonable or fair and what it really 21 comes down to is Dr. Varughese wants to 22 set her own rules. 23 This is the -- she feels free to 24 ignore her program director, she feels 25 free to ignore her Chief Residents, she</p>	<p style="text-align: right;">Page 344</p> <p>1 LEENA VARUGHESE 2 You don't get to not respond to 3 pages, you don't get to not respond to 4 e-mails. 5 When Dr. Firpa tells you don't come 6 to work, there are ways to have recourse 7 for that, too, but you can't ignore it and 8 just show up for work. 9 Dr. Varughese never contacted Dr. 10 Firpa and said I want to come to work, I 11 think I'm well enough to come to work, 12 reassess your view. 13 She just showed up. She never 14 talked to anybody about that, she follows 15 her own set of rules and marches to her 16 own drum. 17 Unfortunately, those set of rules 18 are not Mount Sinai's set of rules and 19 they are certainly not the Department of 20 Pathology's set of rules, so there is 21 really little doubt here that given where 22 she started from, the final warning, given 23 what took place, and her inability to 24 recognize that in any shape, manner or 25 form, she bears some responsibility.</p>
<p style="text-align: right;">Page 343</p> <p>1 LEENA VARUGHESE 2 feels free to ignore her Chair, to ignore 3 the instructions of Dr. Firpa, just 4 because that's what she wants to do. 5 I don't know what the reason for 6 that is, I'm not sure it matters what the 7 reason for that is, but what it tells us 8 all is that there is no reasonable 9 expectation that if this Committee put her 10 back to work, that anything would change, 11 that she would be able to comply with the 12 rules and regulations of the program. 13 You know, my mother had an 14 expression when I was a kid and she said 15 not everybody is out of step in the army 16 but you. 17 And in Dr. Varughese' army 18 everybody is out of the step in the army 19 but her; it doesn't work that way. 20 When you go to work and your 21 program director tells you to do 22 something, you do it. 23 There are recourses if you disagree 24 with it, if you think it's unfair, but you 25 don't get to ignore it.</p>	<p style="text-align: right;">Page 345</p> <p>1 LEENA VARUGHESE 2 The question that she was asked, 3 did you do anything wrong? 4 Is there anything here that you 5 take any responsibility for? 6 The answer is no. 7 And that really is the point, she 8 takes responsibility for nothing. She 9 blames everyone else for her problems, 10 there is no evidence that anyone is 11 responsible for her problems, that anyone 12 was out to get her, that anyone had 13 treated her unfairly. 14 To the contrary, the evidence shows 15 everybody bent over backwards to treat her 16 fairly, to give her another chance to let 17 her succeed and she quite frankly 18 sabotaged herself, she hasn't followed the 19 rules this Committee set down, she hasn't 20 followed the rules pretty much from the 21 day she got here. 22 So now it's too late, quite 23 frankly, for her to come before the 24 Committee and say all this is unfair give 25 me another chance.</p>

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1 LEENA VARUGHESE
2 She's had any number of chances,
3 she hasn't taken advantage of those
4 chances, by no stretch of the imagination
5 can anyone come to the conclusion it was
6 arbitrary and capricious for Dr.
7 Cordone-Cardo and for Dr. Firpa to decide
8 that there was no recourse left but to
9 terminate here her.

10 They consulted with GME at all the
11 appropriate steps, they consulted with
12 Human Resources at all the appropriate
13 steps, I think the only conclusion the
14 Committee can reach is that there is no
15 basis to conclude that it was arbitrary
16 and capricious to terminate Dr. Varughese.

17 Thank you.

18 DR. WEINFELD: Well, I want to
19 thank everyone for staying to this late
20 hour and appreciate everyone's efforts.

21 We are adjourned.

22

23

24

25

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1 LEENA VARUGHESE

2 C E R T I F I C A T E

3
4
5 I, STEPHEN J. MOORE, a Shorthand
6 Reporter and Notary Public of the State of
7 New York, do hereby certify:

8
9
10 That, the Proceedings
11 hereinbefore set forth is a true and
12 accurate record of the Hearing.

13
14 I further certify that I am not
15 related to any of the parties to this
16 action by blood or marriage; and that I am
17 in no way interested in the outcome of
18 this matter.

19
20 STEPHEN J. MOORE, CRR

21

22

23

24

25

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